

SETTLEMENT AGREEMENT

1. INTRODUCTION

1.1 The Parties. This Settlement Agreement is entered into by and between Precila Balabbo (“Balabbo”) and Jo-Ann Stores, LLC (“Jo-Ann”). Together, Balabbo and Jo-Ann are collectively referred to as the “Parties.” Balabbo is an individual who resides in the State of California, and seeks to promote awareness of exposures to toxic chemicals and to improve human health by reducing or eliminating hazardous substances contained in consumer products. Balabbo alleges that Jo-Ann is a person in the course of doing business for purposes of the Safe Drinking Water and Toxic Enforcement Act of 1986, Health & Safety Code § 25249.6, et seq. (“Proposition 65”).

1.2 General Allegations. Balabbo alleges that Jo-Ann has exposed individuals to chromium (hexavalent compounds) (“CrVI”) from its sales of Place & Time gloves, UPC # 888974006897 without first providing users and consumers of the product with a clear and reasonable health hazard exposure warning as required pursuant to Proposition 65. CrVI is listed pursuant to Proposition 65 as a chemical known to the State of California to cause cancer and birth defects or other reproductive harm.

1.3 Product Description. The products covered by this Settlement Agreement are Place & Time gloves, UPC # 888974006897 (the “Products”) that have been imported, distributed, offered for sale and/or sold in California by Jo-Ann.

1.4 Notice of Violation. On April 17, 2024, Balabbo served Jo-Ann and various public enforcement agencies with a document entitled “Notice of Violation of California Health & Safety Code § 25249.6, et seq.” (the “Notice”). The Notice provided Jo-Ann and such others, including public enforcers, with notice that alleged that Jo-Ann was in violation of California Health & Safety Code § 25249.6, for failing to warn California consumers and customers that use of the Products will expose them to CrVI. No public enforcer has diligently prosecuted the allegations set forth in the Notice.

1.5 No Admission. Jo-Ann denies the material factual and legal allegations contained in the Notice and maintains that, to the best of its knowledge, all products that are or have been sold and distributed in California, including the Products, have been and are in compliance with all laws.

Nothing in this Settlement Agreement shall be construed as an admission by Jo-Ann of any fact, finding, issue of law, or violation of law; nor shall compliance with this Settlement Agreement constitute or be construed as an admission by Jo-Ann of any fact, finding, conclusion, issue of law or violation of law, such being specifically denied by Jo-Ann. However, this § 1.5 shall not diminish or otherwise affect the obligations, responsibilities and duties under this Settlement Agreement. Notwithstanding the allegations in the Notice, Jo-Ann maintains that it has not knowingly manufactured, or caused to be manufactured, the Products for sale in California in violation of Proposition 65.

1.6 Effective Date. For purposes of this Settlement Agreement, the term “Effective Date” shall mean the date this Agreement is last executed by the Parties.

2. INJUNCTIVE RELIEF: WARNINGS

2.1 Clear and Reasonable Warning. Commencing within sixty (60) days after the Effective Date, and continuing thereafter, a clear and reasonable exposure warning as set forth in this §§ 2.1 and 2.2 must be provided for all Products that Jo-Ann manufacturers, imports, distributes, sells, or offers for sale in California unless the leather components of such Products are made of Reformulated Leather, as that term is defined in the February 21, 2024 court approved Consent Judgment entered in *Center for Environmental Health v. Bali Leathers, Inc.*, Alameda County Superior Court, Case No. RG 19-029736, more specifically, as each term is defined therein at Sections 3.10 “Reformulated Leather” (page 5), 3.11 “Reformulation Protocol” (page 5 and Exhibit C thereto, 3.2 “Chrome-Tanned Leather” (page 4), 3.1 Certified Tannery” (page 3) and 3.6 “Exotic Leather” (page 4). There shall be no obligation for Jo-Ann to provide an exposure warning for Products that entered the stream of commerce within 60 days after the Effective Date. The warning shall consist of either the **Warning** or **Alternative Warning** described in §§ 2.1(a) or (b), respectively:

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

⚠ WARNING: This product can expose you to chemicals including chromium (hexavalent compounds), which are 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.

(b) **Alternative Warning:** Jo-Ann may, but is not required to, use the alternative short-form warning as set forth in this § 2.1(b) (“**Alternative Warning**”) as follows:

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

2.2 A Warning or Alternative Warning provided pursuant to § 2.1 must print the word “**WARNING:**” in all capital letters and in bold font, followed by a colon. The warning symbol to the left of the word “**WARNING:**” must be a black exclamation point in a yellow equilateral triangle with a black outline, except that if the sign or label for the Products does not use the color yellow, the symbol may be in black and white. The symbol must be in a size no smaller than the height of the word “**WARNING:**”. The **Warning or Alternative Warning** shall be affixed to or printed on the Products’ packaging or labeling, or on a placard, shelf tag, sign or electronic device or automatic process, provided that the **Warning or Alternative Warning** is 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 under customary conditions of purchase or use. The **Warning or Alternative Warning** may be contained in the same section of the packaging, labeling, or instruction booklet that states other safety warnings, if any, concerning the use of the Product and shall be at least the same size as those other safety warnings. If “consumer information,” as that term is defined in Title 27, California Code of Regulations, Section 25600.1(c) as it may be amended from time to time, is provided in a foreign language, Jo-Ann shall provide the **Warning or Alternative Warning** in the foreign language in accordance with applicable warning regulations adopted by the State of California’s Office of Environmental Health Hazard Assessment (“**OEHHA**”).

In addition to affixing the **Warning or Alternative Warning** to the Product’s packaging or labeling, the **Warning or Alternative Warning** shall be posted on websites where Jo-Ann offers Products for sale to consumers in California. The requirements of this Section shall be satisfied if the **Warning or Alternative Warning**, or a clearly marked hyperlink using the word “**WARNING,**” appears on the product display page, or by otherwise prominently displaying the warning to the purchaser prior to completing the purchase. To comply with this Section, Jo-Ann shall (a) post the **Warning or Alternative Warning** on its own website and, if it has the ability to do so, on the websites

of its third-party internet sellers; and (b) if it does not have the ability to post the **Warning** or **Alternative Warning** on the websites of its known third-party internet sellers, provide such sellers with written notice in accordance with Title 27, California Code of Regulations, Section 25600.2. Third-party internet sellers of the Product that have been provided with written notice in accordance with Title 27, California Code of Regulations, Section 25600.2 are not released in Section 5 of this Agreement if they fail to meet the warning requirements of this Section.

2.3 Compliance with Warning Regulations. The Parties agree that Jo-Ann shall be deemed to be in compliance with this Settlement Agreement by either adhering to § 2 of this Settlement Agreement or by complying with warning regulations adopted by the State of California's OEHHA applicable to the Product and the exposures at issue within 60 days after the Effective Date.

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

In settlement of all the claims referred to in this Settlement Agreement, Jo-Ann shall pay \$500.00 as a Civil Penalty in accordance with this Section. The Civil Penalty payment shall be allocated in accordance with California Health & Safety Code §§ 25249.12(c)(1) and (d), with 75% of the Penalty remitted to OEHHA and the remaining 25% of the Penalty remitted to Balabbo. The Civil Penalty payment(s) shall be delivered to the addresses identified in § 3.2, below. For all amounts due and owing that are not received within the payment times set forth below, Jo-Ann shall pay a late civil penalty payment fee equal to \$100/day to be allocated in accordance with California Health & Safety Code § 25249.12(c)(1) and (d).

3.1 Civil Penalty. Within ten (10) business days of the Effective Date, Jo-Ann shall issue two (2) separate checks for the Civil Penalty payment to (a) "OEHHA" in the amount of \$375.00; and to (b) "Brodsky Smith in Trust for Balabbo" in the amount of \$125.00. The Civil Penalty payment(s) shall be delivered to the addresses identified in § 3.2, below.

3.2 Payment Procedures.

(a) Issuance of Payments. Payments shall be delivered as follows:

(i) All payments owed to Balabbo, pursuant to § 3.1 shall be delivered to the following payment address:

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

(ii) All payments owed to OEHHA (EIN: 68-0284486), pursuant to § 3.1 shall be delivered directly to OEHHA (Memo Line “Prop 65 Penalties”) at the following addresses:

For United States Postal Service Delivery:

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

For Non-United States Postal Service Delivery:

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

(b) Copy of Payments to OEHHA. Jo-Ann agrees to provide Balabbo’s counsel with a copy of the checks payable to OEHHA, simultaneous with its penalty payments to Balabbo, to be delivered to the address provided in § 3.2(a)(i), as proof of payment to OEHHA.

(c) Tax Documentation. Jo-Ann agrees to provide a completed IRS 1099 for its payments to, and Balabbo agrees to provide IRS W-9 forms for, each of the following payees under this Settlement Agreement:

(i) “Precila Balabbo” whose address and tax identification number shall be provided within five (5) days after this Settlement Agreement is fully executed by the Parties;

(ii) “Brodsky Smith” (EIN: 23-2971061) at the address provided in Section 3.2(a)(i); and

(iii) “Office of Environmental Health Hazard Assessment” 1001 I Street, Sacramento, CA 95814.

4. REIMBURSEMENT OF FEES AND COSTS

The Parties acknowledge that Balabbo and her counsel offered to reach preliminary agreement on the material terms of this dispute before reaching terms on the amount of fees and costs to be reimbursed to them. The Parties thereafter reached an accord on the compensation due to Balabbo and her counsel under general contract principles and the private attorney general doctrine and principles codified at California Code of Civil Procedure § 1021.5, for all work performed through the mutual execution of this agreement. Under these legal principles, Jo-Ann shall reimburse Balabbo's counsel for fees and costs incurred as a result of investigating and bringing this matter to the attention of Jo-Ann, and negotiating a settlement in the public interest. Within ten (10) business days of the Effective Date, Jo-Ann shall issue a check payable to "Brodsky Smith" in the amount of \$17,000.00 for delivery to the address identified in § 3.2(a)(i), above.

5. RELEASE OF ALL CLAIMS

5.1 Release of Jo-Ann and Downstream Customers and Entities. This Settlement Agreement is a full, final and binding resolution between Balabbo, acting on her own behalf, and Jo-Ann, of any violation of Proposition 65 that was or could have been asserted by Balabbo or on behalf of her past and current agents, representatives, attorneys, successors, and/or assigns ("Releasers") for failure to provide warnings for alleged exposures to CrVI from use of the Products, and Releasers hereby release any such claims against Jo-Ann and its parents, subsidiaries, affiliated entities, shareholders, marketplaces, directors, officers, agents, employees, attorneys, successors and assignees, and each entity to whom Jo-Ann directly or indirectly distributes or sells the Products, including but not limited to, downstream distributors, wholesalers, customers, retailers, including but not limited to Jo-Ann, and its respective subsidiaries, affiliates and parents, franchisees, cooperative members and licensees (collectively, the "Releasees"), from all claims for violations of Proposition 65 based on exposure to CrVI from use of the Products.

In further consideration of the promises and agreements herein contained, and for the payments to be made pursuant to §§ 3 and 4 above, Balabbo, on behalf of herself, her past and current agents, representatives, attorneys, successors and/or assignees, hereby covenants not to sue and waives any

right to institute, participate in, directly or indirectly, any form of legal action and releases all claims that she may have, including without limitation, all actions and causes of action in law and in equity, all obligations, expenses (including without limitation all attorneys' fees, expert fees, and investigation fees, and costs), damages, losses, liabilities and demands against any of the Releasees of any nature, character, or kind, whether known or unknown, suspected or unsuspected, limited to and arising out of the alleged or actual exposure to the chemical CrVI from use of the Products.

5.2 Jo-Ann's Release of Balabbo. Jo-Ann, on behalf of itself, its past and current agents, representatives, attorneys, successors and/or assignees, hereby waives any and all claims against Balabbo, her attorneys and other representatives, for any and all actions taken or statements made (or those that could have been taken or made) by Balabbo and/or her attorneys and other representatives, whether in the course of investigating claims or otherwise seeking to enforce Proposition 65 against it in this matter or with respect to exposure to CrVI from use of the Products.

5.3 California Civil Code § 1542. It is possible that other claims not known to the Parties arising out of the facts alleged in the Notice and relating to the Products will develop or be discovered. Balabbo on behalf of herself only, on one hand, and Jo-Ann, on the other hand, acknowledge that this Agreement is expressly intended to cover and include all such claims, including all rights of action therefor. The Parties acknowledge that the claims released in §§ 5.1 and 5.2, above, may include unknown claims, and nevertheless waive California Civil Code § 1542 as to any such unknown claims. California Civil Code § 1542 reads 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 HIS, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

Balabbo and Jo-Ann each acknowledge and understand the significance and consequences of this specific waiver of California Civil Code § 1542.

5.4 Deemed Compliance with Proposition 65. The Parties agree that compliance by Jo-Ann with this Settlement Agreement constitutes compliance with Proposition 65 with respect to exposure to CrVI from use of the Products.

5.5. Public Benefit. It is Jo-Ann's understanding that the commitments it has agreed to herein, and actions to be taken by Jo-Ann under this Settlement Agreement, would 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 Jo-Ann that to the extent any other private party initiates an action alleging a violation of Proposition 65 with respect to Jo-Ann's failure to provide a warning concerning exposure to CrVI prior to use of the 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 Products addressed in this Settlement Agreement, provided that Jo-Ann is in material compliance with this Settlement Agreement.

6. SEVERABILITY

If, subsequent to the execution of this Settlement Agreement, any of the provisions of this Settlement Agreement are deemed by a court to be unenforceable, the validity of the enforceable provisions remaining shall not be adversely affected but only to the extent the deletion of the provision deemed unenforceable does not materially affect, or otherwise result in the effect of the Settlement Agreement being contrary to the intent of the Parties in entering into this Settlement Agreement.

7. GOVERNING LAW

The terms of this Settlement Agreement shall be governed by the law of the State of California and apply within the State of California. In the event that Proposition 65 is repealed or is otherwise rendered inapplicable or limited by reason of law generally, or as to the Products, Jo-Ann shall provide written notice to Balabbo of any asserted change in the law, and shall have no further obligations pursuant to this Settlement Agreement with respect to, and to the extent that, a Product is so affected.

8. 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; or (ii) overnight or two-day courier on any party by the other party to the following addresses:

For Jo-Ann:

Michael Gleason
Hahn Loeser & Parks LLP
One American Plaza
600 W. Broadway, Ste. 1500
San Diego, CA 92101

For Balabbo:

Evan J. Smith
Brodsky Smith
Two Bala Plaza, Suite 805
Bala Cynwyd, PA 19004

Either 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.

9. COUNTERPARTS: SIGNATURES

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

10. COMPLIANCE WITH HEALTH & SAFETY CODE § 25249.7(f)

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

11. MODIFICATION

This Settlement Agreement may be modified only by a written agreement of the Parties.

12. ENTIRE AGREEMENT

This Settlement Agreement contains the sole and entire agreement of the Parties and any and all prior negotiations and understandings related hereto shall be deemed to have been merged within

it. No representations or terms of agreement other than those contained herein exist or have been made by any Party with respect to the other Party or the subject matter hereof.

13. AUTHORIZATION

The undersigned are authorized to execute this Settlement Agreement and have read, understood and agree to all of the terms and conditions contained of this Settlement Agreement.

AGREED TO:

AGREED TO:

Date: 8 | 21 | 24

Date: _____

By: 
Precila Balabbo

By: _____
Jo-Ann Stores, LLC

it. No representations or terms of agreement other than those contained herein exist or have been made by any Party with respect to the other Party or the subject matter hereof.

13. AUTHORIZATION

The undersigned are authorized to execute this Settlement Agreement and have read, understood and agree to all of the terms and conditions contained of this Settlement Agreement.

AGREED TO:

AGREED TO:

Date: _____

Date: 08/21/2024

By: _____
Precila Balabbo

By: James Weikamp
Jo-Ann Stores, LLC

EXHIBIT “A”

1 LEXINGTON LAW GROUP LLP
Eric S. Somers, State Bar No. 139050
2 Joseph Mann, State Bar No. 207968
3 Meredyth L. Mellow, State Bar No. 328337
4 503 Divisadero Street
San Francisco, CA 94117
5 Telephone: (415) 913-7800
6 Facsimile: (415) 759-4112
esomers@lexlawgroup.com
7 jmann@lexlawgroup.com
mmerrow@lexlawgroup.com

8 Attorneys for Plaintiff
CENTER FOR ENVIRONMENTAL HEALTH

FILED
ALAMEDA COUNTY

FEB 21 2024

CLERK OF THE SUPERIOR COURT
By *Nicola Hall*

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 COUNTY OF ALAMEDA

13 CENTER FOR ENVIRONMENTAL HEALTH,
14 a non-profit corporation,
15 Plaintiff,
16 v.
17 BALI LEATHERS, INC., et al.,
18 Defendants.

Lead Case No. RG 19-029736
[Consolidated with Case No. RG 19-034870]
ASSIGNED FOR ALL PURPOSES TO:
The Hon. Noël Wise, Dept. 21
~~PROPOSED~~ ORDER APPROVING
OPT-IN PROCEDURE AND
FUTURE AMENDMENT OF
CONSENT JUDGMENT

Actions Filed: August 2, 2019 (RG 19-029736); September 12, 2019 (RG 19-034870)
Trial Date: None set

1 Pursuant to the Stipulation for Opt-In Procedure and Future Amendment of Consent
2 Judgment among Plaintiff Center for Environmental Health (“CEH”) and the defendants
3 identified on Exhibit A of the Consent Judgment attached hereto as Exhibit 1 (“Initial Settling
4 Defendants”), and good cause appearing therefore,

5 IT IS HEREBY ORDERED as follows:

6 1. An entity is eligible to become an Opt-In Settling Defendant under the terms of the
7 proposed Amended Consent Judgment attached hereto as Exhibit 2 if it (a) is a “person in the
8 course of doing business” as that term is defined in California Health and Safety Code
9 §25249.11(b); and (b) manufactures or purchases one or more Covered Products (as defined in
10 Section 3.3 of the Amended Consent Judgment) that the entity knows or has reason to believe
11 may be sold or offered for sale in the State of California, or has done so in the past.

12 2. No later than 90 days after Notice of Entry of the Consent Judgment, an entity that
13 wishes to become an Opt-In Settling Defendant shall provide to CEH’s Counsel, with a copy to
14 Defense Liaison Counsel, each of the following:

- 15 (a) its Notice of Intent to Opt In to Consent Judgment (“Notice of Intent”) in
16 the form attached hereto as Exhibit 3;
- 17 (b) all payments required by Section 7 and Exhibit A of the Amended Consent
18 Judgment;
- 19 (c) an executed signature page to the Amended Consent Judgment; and
- 20 (d) for any Opt-In Settling Defendant that is not already named as a defendant
21 in one of the consolidated actions, a signed stipulation to consent to the
22 general jurisdiction of the Court.

23 CEH shall have the right to reject any Notice of Intent based on the identification or grouping of
24 entities identified as Opt-In Settling Defendants or the sufficiency of the information provided, in
25 which case CEH shall promptly return any funds received with such Notice of Intent.

26 3. Within 120 days after Notice of Entry of the Consent Judgment, to the extent it has
27 not already done so, CEH shall serve a 60-Day Notice of Violation of Proposition 65 pursuant to

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1 California Health and Safety Code §25249.7(d)(1) relating to chromium (hexavalent compounds)
2 (“CrVI”) in designated Covered Products upon each entity that has properly notified CEH of its
3 intent to opt into the Consent Judgment and provided sufficient factual information to support the
4 Notice of Violation.

5 4. Within 135 days of Notice of Entry of the Consent Judgment, and assuming it has
6 received at least one notice of intent to opt in, CEH shall file a noticed motion for approval of a
7 proposed Amended Consent Judgment in the form attached hereto as Exhibit 2. The Amended
8 Consent Judgment filed with the Court may only differ from the attached Exhibit 2 in that it will
9 (a) attach the Opt-In Settling Defendants’ signature pages; (b) allocate the Opt-In Settling
10 Defendants’ payments in Exhibit A depending on the number of Opt-In Settling Defendants,
11 CEH’s unrecouped attorneys’ fees and costs, each Opt-In Settling Defendant’s California unit
12 sales of Covered Products, and whether that Opt-In Settling Defendant owes an initial appearance
13 fee to the Court; (c) add the type of Covered Products and the other information required for each
14 Opt-In Settling Defendant to Exhibit A; and (d) include any other changes that are necessary to
15 effectuate the intent of the parties. CEH may use the Initial Settling Defendants’ signatures on
16 the Consent Judgment as their signatures on the Amended Consent Judgment.

17 5. The motion for approval of the Amended Consent Judgment shall be set for
18 hearing at least 60 days after CEH serves the last 60-Day Notice of Violation of Proposition 65
19 regarding CrVI in Covered Products on the Opt-In Settling Defendants.

20 6. CEH is hereby granted leave to amend the applicable operative complaint(s) in this
21 and/or any consolidated and/or related actions as necessary to name each Opt-In Settling
22 Defendant as a party with respect to each type of Covered Product that Opt-In Settling Defendant
23 designates in its Notice of Intent.

24 7. For any Opt-In Settling Defendant that is not already named as a defendant in one
25 of the consolidated actions, CEH is hereby granted leave to (a) file a Stipulation to Consent to
26 General Jurisdiction signed by each Opt-In Settling Defendant, which shall constitute a general
27 appearance as to each; and (b) pay a \$435 appearance fee for each case to which the Opt-In
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1 Settling Defendant will be added, to be allocated from that Opt-In Settling Defendant's payments
2 in Exhibit A to the Amended Consent Judgment.

3 8. The deadlines in this Order may be extended by written stipulation between CEH
4 and Defense Liaison Counsel, following Defense Liaison Counsel's consultation with the Initial
5 Settling Defendants with no objections from them being raised.


6 9. Nothing in this Order or the Consent Judgment shall preclude CEH from resolving
7 any claim against an entity that is not an Initial Settling Defendant or Opt-In Settling Defendant
8 on different terms than are contained in the Consent Judgment or the Amended Consent
9 Judgment.

10 10. Except as specifically stated herein, nothing in this Order shall modify or in any
11 way affect the rights or obligations of the Initial Settling Defendants and CEH as set forth in the
12 Consent Judgment.

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14 **IT IS SO ORDERED.**

15 Dated: 2/21/24



Judge of the Superior Court

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Exhibit 1

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ALAMEDA

CENTER FOR ENVIRONMENTAL HEALTH,
a non-profit corporation,

Plaintiff,

v.

BALI LEATHERS, INC., *et al.*,

Defendants.

Lead Case No. RG 19-029736

[Consolidated with Case No. RG 19-034870]

ASSIGNED FOR ALL PURPOSES TO:
The Hon. Noël Wise, Dept. 21

CONSENT JUDGMENT

Actions Filed: August 2, 2019 (RG 19-029736); September 12, 2019 (RG 19-034870)

1 **1. INTRODUCTION**

2 1.1 The Parties to this Consent Judgment are the Center for Environmental Health, a
3 California non-profit corporation (“CEH”), and each of the Defendants listed on Exhibit A
4 (“Settling Defendants”). CEH and each Settling Defendant are referred to herein together as the
5 “Parties” or singly as a “Party.”

6 1.2 The Parties enter into this Consent Judgment without a trial. Nothing in this
7 Consent Judgment constitutes an admission by any Party regarding any issue of law or fact. This
8 Consent Judgment sets forth the agreement and obligations of Settling Defendants and CEH and,
9 except as specifically provided below, it constitutes the complete, final, and exclusive agreement
10 among the Parties and supersedes any prior agreements among the Parties.

11 **2. PROCEDURAL BACKGROUND, JURISDICTION, AND PURPOSE**

12 2.1 Commencing on April 15, 2019, CEH issued a series of 60-day Notices of
13 Violation under Health & Safety Code §25249.5 *et seq.* (“Proposition 65”) to each of the Settling
14 Defendants, the California Attorney General, the District Attorneys of every county in California,
15 and the City Attorneys of every California city with a population greater than 750,000, alleging
16 that Settling Defendants violated Proposition 65 by exposing persons to CrVI (defined in Section
17 3.4 below) from various types of gloves made with leather materials without first providing a
18 clear and reasonable Proposition 65 warning.

19 2.2 Commencing on July 2, 2019, CEH issued a series of 60-day Notices of Violation
20 under Proposition 65 to each of the Settling Defendants, the California Attorney General, the
21 District Attorneys of every county in California, and the City Attorneys of every California city
22 with a population greater than 750,000, alleging that Settling Defendants violated Proposition 65
23 by exposing persons to CrVI from footwear made with leather materials without first providing a
24 clear and reasonable Proposition 65 warning.

25 2.3 On August 2, 2019, CEH filed the original Complaint in the above captioned *CEH*
26 *v. Bali* matter. On May 19, 2022, CEH filed the operative First Amended Complaint in the *CEH*
27 *v. Bali* matter (the “*Bali* Complaint”). On September 12, 2019, CEH filed the original Complaint
28 in the above captioned *CEH v. Tommy Bahama* matter, which was subsequently amended. On

1 May 19, 2022, CEH filed the operative Third Amended Complaint in the *CEH v. Tommy Bahama*
2 matter (the “*Tommy Bahama* Complaint”). The *Bali* Complaint and the *Tommy Bahama*
3 Complaint are together referred to herein as the “Complaints.” The *CEH v. Bali* and *CEH v.*
4 *Tommy Bahama* consolidated matters are referred to herein as the “Actions.”

5 2.4 Each Settling Defendant is a business entity that is also a person in the course of
6 doing business as such term is defined under Proposition 65.

7 2.5 For purposes of this Consent Judgment only, CEH and the Settling Defendants
8 stipulate that: (a) this Court has jurisdiction over the allegations of violations contained in the
9 Complaints; (b) this Court has personal jurisdiction over Settling Defendants as to the acts alleged
10 in those Complaints, (c) venue is proper in Alameda County; and (d) this Court has jurisdiction to
11 enter this Consent Judgment as a full and final resolution of all claims which were or could have
12 been raised in the Complaints based on the facts alleged therein.

13 2.6 Settling Defendants and CEH agree not to challenge or object to entry of this
14 Consent Judgment by the Court. The Parties agree not to challenge this Court’s jurisdiction to
15 enforce the terms of this Judgment once it has been entered, and agree that this Court maintains
16 jurisdiction over this Judgment for that purpose, unless the Consent Judgment is terminated.

17 2.7 By execution of this Consent Judgment and agreeing to provide the relief and
18 remedies specified herein, Settling Defendants do not admit any violations of Proposition 65 or
19 any other law or legal duty. Each Settling Defendant expressly denies any liability for any of the
20 claims asserted and the facts alleged in the Complaints and the CEH 60-Day Notices. Nothing in
21 this Consent Judgment is intended to be an admission of any issue of law or fact. This Consent
22 Judgment is the product of negotiation and compromise and is accepted by the Parties solely for
23 the purpose of settling, compromising, and resolving issues disputed in this Action.

24 **3. DEFINITIONS**

25 3.1 A “Certified Tannery” is a leather tannery that (a) is certified to produce Chrome-
26 Tanned Leather pursuant to the Reformulation Protocol and provides a certification substantially
27 in the form set forth on Exhibit B, or (b) provides a certification demonstrating that the tannery
28 has achieved certification with overall Gold rating under the Leather Working Group (LWG)

1 Audit Protocol P7.2.2 (or any subsequent higher version that is in force at the time of
2 certification), or has attained a Gold medal rating in the section “Restricted Substances,
3 Compliance & Chromium VI Management” (or any subsequent section or sections regarding
4 CrVI management) (“LWG Certification”).

5 3.2 “Chrome-Tanned Leather” means leather, other than Exotic Leather, tanned with
6 chromium compounds.

7 3.3 “Covered Products” means:

8 3.3.1 Footwear for which normal and foreseeable use will result in one or more
9 Chrome-Tanned Leather components coming into direct contact with the skin of the average
10 user’s foot or leg while the footwear is worn (*e.g.*, a Chrome-Tanned Leather insole, tongue, liner,
11 unlined upper, or strap);

12 3.3.2 Gloves for which normal and foreseeable use will result in one or more
13 Chrome-Tanned Leather components coming into direct contact with the skin of the average
14 user’s hand while the gloves are worn (*e.g.*, an unlined glove, or one that is lined with Chrome-
15 Tanned Leather);

16 3.3.3 The definition of Covered Products as applied to each specific Settling
17 Defendant may be further modified as set forth on Exhibit A for that Settling Defendant (*e.g.*, the
18 specific type or category of leather glove covered by the injunctive terms of this Consent
19 Judgment for a particular Settling Defendant).

20 3.4 “CrVI” means chromium (hexavalent compounds), a chemical listed under
21 Proposition 65 as a known carcinogen and reproductive toxicant.

22 3.5 “Effective Date” means the date on which this Consent Judgment is entered by the
23 Court.

24 3.6 “Exotic Leather” means leather that is made from hides of exotic animals such as
25 alligators, crocodiles, sharks, lizards, snakes, and ostriches.

26 3.7 “Final Compliance Date” means the earlier of the date twenty-four (24) months
27 after the Effective Date or December 31, 2025.

28 3.8 “Initial Compliance Date” means one (1) year after the Effective Date.

1 3.9 “Interim Compliance Date” means six (6) months prior to the Final Compliance
2 Date.

3 3.10 “Reformulated Leather” means Chrome-Tanned Leather that was produced
4 pursuant to the Reformulation Protocol by a Certified Tannery.

5 3.11 “Reformulation Protocol” means the leather tanning protocol set forth on Exhibit
6 C.

7 3.12 “Skin Contact Component” means a Chrome-Tanned Leather component that
8 comes into direct contact with the skin of the average user’s hand or foot while the Covered
9 Product is being worn.

10 3.13 “Supplier” means an entity from which a Settling Defendant purchases or acquires
11 Covered Products or Chrome-Tanned Leather components used to manufacture Covered
12 Products.

13 **4. FACTUAL BACKGROUND**

14 4.1 Chromium exists in different valence states. One of those states is CrVI and
15 another is trivalent chromium, which is also known as CrIII. Neither elemental chromium nor
16 CrIII is a listed chemical under Proposition 65.

17 4.2 Chromium tanning is a process of preserving hides that uses CrIII compounds.
18 CrVI is not intentionally added to leather in the tanning process.

19 4.3 The valence state of chromium is unstable in nature. For example, CrIII will under
20 certain environmental conditions oxidize into CrVI. Likewise, CrVI will under certain
21 environmental conditions reduce into CrIII.

22 4.4 The process by which CrIII turns into CrVI is called oxidation. Certain chemicals
23 called antioxidants prevent or inhibit the oxidation process of chromium. Antioxidants can thus
24 prevent the formation of CrVI in or on the surface of the leather.

25 4.5 Environmental conditions that affect the oxidation and reduction of chromium
26 between CrIII and CrVI include temperature, humidity, and pH.

27 4.6 The Reformulation Protocol requires tanneries to take steps to minimize the
28 potential introduction of CrVI to leather during the tanning process for Chrome-Tanned Leather

1 and to use antioxidants that are baked into the hides during the tanning process. If a tannery
2 follows the Reformulation Protocol, the antioxidants will prevent or inhibit the oxidation process
3 such that there will not likely be detectable CrVI on the surface of the leather.

4 **5. INJUNCTIVE RELIEF**

5 **5.1 Notice to Suppliers.**

6 **5.1.1** To the extent any Settling Defendant has not already done so, no more than
7 sixty (60) days after the date of entry of this Consent Judgment, each Settling Defendant shall
8 provide notice to each of its current Suppliers that all Chrome-Tanned Leather used to
9 manufacture Skin Contact Components of Covered Products manufactured, distributed, or sold by
10 the Settling Defendant must be Reformulated Leather. The notice shall request that (a) any
11 Supplier of Chrome-Tanned Leather that is a tannery used to manufacture Skin Contact
12 Components provide to the Settling Defendant either (i) a certification in the form of Exhibit B,
13 or (ii) an LWG Certification; (b) any Supplier of Chrome-Tanned Leather or finished product that
14 is not a tannery obtain from its supplier(s) of Chrome-Tanned Leather used to manufacture Skin
15 Contact Components of Covered Products either (i) a certification in the form of Exhibit B, or (ii)
16 an LWG Certification; and (c) all Suppliers retain certifications for Chrome-Tanned Leather for a
17 period of at least five (5) years and, to the extent not already provided, produce them upon written
18 request of the Settling Defendant.

19 **5.1.2** Prior to or coincident with ordering any Skin Contact Components or
20 Covered Products from a new Supplier or a Supplier who has not received a notice from the
21 Settling Defendant under Section 5.1.1 within five (5) years of the date of such order, a Settling
22 Defendant shall provide a notice to such Supplier, consistent with Section 5.1.1.

23 **5.1.3** Any written notice sent pursuant to this Section shall include the written
24 Tannery Certification and Reformulation Protocol set forth in Exhibits B and C. The written
25 notice attached hereto as Exhibit D is deemed to comply with the requirements of this Section.
26
27
28

1 **5.2 Reformulation.**

2 **5.2.1 Phased Compliance Timeline.**

3 5.2.1.1 After the Initial Compliance Date, each Settling Defendant shall
4 ensure that all of the Chrome-Tanned Leather used to manufacture Skin Contact Components of
5 at least fifty percent (50%) of Covered Products purchased or manufactured by Settling
6 Defendant that a Settling Defendant knows or has reason to believe may be sold or offered for
7 sale by Settling Defendant or any entity downstream of Settling Defendant in California is
8 Reformulated Leather.

9 5.2.1.2 After the Interim Compliance Date, each Settling Defendant
10 shall ensure that all of the Chrome-Tanned Leather used to manufacture Skin Contact
11 Components of at least seventy-five percent (75%) of Covered Products purchased or
12 manufactured by Settling Defendant that a Settling Defendant knows or has reason to believe may
13 be sold or offered for sale by Settling Defendant or any entity downstream of Settling Defendant
14 in California is Reformulated Leather.

15 5.2.1.3 After the Final Compliance Date, and subject to Section 5.3,
16 each Settling Defendant shall ensure that all of the Chrome-Tanned Leather used to manufacture
17 Skin Contact Components of Covered Products purchased or manufactured by Settling Defendant
18 that a Settling Defendant knows or has reason to believe may be sold or offered for sale by
19 Settling Defendant or any entity downstream of Settling Defendant in California is Reformulated
20 Leather.

21 5.2.1.4 A Settling Defendant's compliance with this Section 5.2.1 shall
22 be determined by the number of styles of Covered Products that contain only Skin Contact
23 Components supplied by a Certified Tannery divided by the total number of styles of Covered
24 Products. A Settling Defendant shall be entitled to rely on Supplier certifications to demonstrate
25 compliance with this Section 5.2.1.

26 5.2.2 If a Settling Defendant is unable to comply with the requirements of
27 Section 5.2.1 for either the Initial Compliance Date or the Interim Compliance Date, then within
28 thirty (30) days of such date, as applicable, it shall serve on CEH a report detailing the extent of

1 its compliance with such requirement, and the circumstances that prevented compliance with such
2 requirement.

3 5.3 **Warnings.** After the Final Compliance Date, a Settling Defendant may utilize
4 Skin Contact Components that were not supplied by a Certified Tannery, but only as set forth in
5 this Section. If a Settling Defendant makes a determination that it is not “feasible” to obtain Skin
6 Contact Components from a Certified Tannery, it may proceed under this Section for such
7 Covered Product.

8 5.3.1 The term “feasible” includes, but is not limited to, consideration of the
9 following factors:

10 5.3.1.1 the availability of Chrome-Tanned Leather from Certified
11 Tanneries;

12 5.3.1.2 the cost of Chrome-Tanned Leather and resulting increase in
13 manufacturers’ prices resulting from the use of leather from Certified Tanneries, which factor
14 includes the geographic proximity of the factory producing the Covered Product and any Certified
15 Tannery that can produce the leather used in the Covered Product; and

16 5.3.1.3 the availability, cost, and performance and aesthetic
17 characteristics of non-Chrome-Tanned Leather that could substitute for Chrome-Tanned Leather
18 in Skin Contact Components of Covered Products;

19 5.3.2 No Settling Defendant may sell a Covered Product that such Settling
20 Defendant knows or has reason to believe may be sold or offered for sale in California by Settling
21 Defendant or any entity downstream of Settling Defendant for which it has made a determination
22 that is not “feasible” to obtain Skin Contact Components from a Certified Tannery unless such
23 Covered Product is labeled with a Clear and Reasonable Warning.

24 5.3.2.1 A Clear and Reasonable Warning under this Consent Judgment
25 shall state:



27 **WARNING:** This product can expose you to chemicals including hexavalent
28 chromium, which is known to the State of California to cause cancer and birth

1 defects or other reproductive harm. For more information go to
2 www.P65Warnings.ca.gov.

3 The word **“WARNING”** shall be displayed in all capital letters and bold print and shall be
4 preceded by the yellow warning triangle symbol depicted above, provided however, the symbol
5 may be printed in black and white if the Covered Product label is produced without using the
6 color yellow. This warning statement shall be prominently displayed on the outer packaging or
7 tag of the Covered Product and shall be displayed with such conspicuousness, as compared with
8 other words, statements, or designs, as to render it likely to be seen, read, and understood by an
9 ordinary individual prior to sale. Where a sign or label used to provide a warning includes
10 consumer information about a product in a language other than English, the warning shall also be
11 provided in that language in addition to English.

12 5.3.2.2 For online and catalog sales, any Settling Defendant that
13 provides warnings pursuant to this Section shall (i) ensure that Clear and Reasonable Warnings
14 under Section 5.3.2 are provided for Covered Products that the Settling Defendant sells online to
15 consumers in California, and (ii) provide the warning language required in Section 5.3.2.1 to any
16 customers whom it knows or has reason to believe are offering the Settling Defendants' Covered
17 Products for which a warning is required for sale online to consumers in California. Settling
18 Defendants shall also revise any product catalogs printed after the Final Compliance Date to
19 include the warning language required in Section 5.3.2.1 for each Covered Product identified in
20 the catalog that requires a Clear and Reasonable Warning pursuant to this Section. For internet,
21 catalog, or any other sale where the consumer is not physically present, the warning statement
22 shall be displayed in such a manner that it is likely to be read and understood by an ordinary
23 individual prior to the authorization of or actual payment.

24 5.3.3 Any Settling Defendant that provides a warning pursuant to the feasibility
25 option of this Section shall provide a detailed written report to CEH within forty-five (45) days of
26 the end of each calendar year regarding the use of the feasibility warnings, the units covered, and
27 the specific factual basis for the feasibility finding. This reporting obligation shall terminate five
28 (5) years after the Effective Date.

1 5.3.4 No Settling Defendant may make use of the feasibility warnings set forth in
2 this Section on more than the Allowed Warning Percentage of the styles of Covered Products
3 shipped to California or to customers which the Settling Defendant knows or has reason to
4 believe will offer for sale to customers in California in any particular year. The "Allowed
5 Warning Percentage" shall be thirty-three percent (33%) in the first and second years after the
6 Final Compliance Date, seventeen percent (17%) in the third year after the Final Compliance
7 Date, and five percent (5%) thereafter.

8 5.4 **Document Retention Requirements.** All certifications, Supplier notifications,
9 feasibility documents, and other documents referenced in this Section 5 shall be retained by each
10 Settling Defendant for four (4) years from the date of creation and made available to CEH upon
11 written request not more than once per calendar year, commencing on the Final Compliance Date
12 until the seventh (7th) anniversary of the Effective Date.

13 **6. ENFORCEMENT**

14 6.1 **Enforcement Procedures.** Any Party or any of the public entities identified in
15 Health & Safety Code section 25249.7(c) (collectively, "Enforcers") may by motion or
16 application for an order to show cause before this Court seek to enforce the terms of this Consent
17 Judgment. Prior to filing any such motion or application, the Enforcer(s) shall provide the
18 allegedly violating Party with a written notice setting forth the detailed factual and legal basis for
19 the alleged violation along with any evidentiary support for the alleged violation ("Notice of
20 Violation"). The Enforcer(s) and the allegedly violating Party shall then meet and confer during
21 the thirty (30) day period following the date the Notice of Violation was sent in an effort to try to
22 reach agreement on an appropriate cure, penalty, or related attorneys' fees related to the alleged
23 violation. After such thirty (30) day period, the Enforcer(s) may, by motion or application for an
24 order to show cause before the Superior Court of Alameda, seek to enforce the terms and
25 conditions contained in this Consent Judgment. Nothing in this Section 6.1 shall impact the
26 Court's authority in an enforcement proceeding to impose appropriate remedies, including the
27 provision of a clear and reasonable warning.

28

1 **6.2 Notice of Violation Regarding Failure to Comply with Section 5.2.**

2 6.2.1 If an Enforcer serves a Notice of Violation that alleges a violation of the
3 reformulation requirements set forth in Section 5.2, it shall identify the Covered Product and the
4 Skin Contact Components that the Enforcer contends were not produced by a Certified Tannery
5 pursuant to the Reformulation Protocol, along with the evidentiary support for such claim.

6 6.2.2 A Settling Defendant shall serve its response to a Notice of Violation
7 served under Section 6.2.1 within thirty (30) days of receipt of the Notice, unless extended by
8 agreement. The response shall include any certification and documentation sufficient to
9 demonstrate that the Skin Contact Components of the Covered Product that were the subject of
10 the Notice of Violation were produced by a Certified Tannery.

11 6.2.2.1 If the Settling Defendant's response demonstrates that: (a) the
12 Skin Contact Components identified in the Notice were produced by a tannery that was a
13 Certified Tannery at the time of production; or (b) the Notice of Violation identifies the same
14 Covered Product or Covered Products differing only in size that have been the subject of another
15 Notice of Violation within the preceding twelve (12) months, the Enforcer shall take no further
16 action. If the Enforcer contends that the Settling Defendant's response does not satisfy the
17 provisions of this Section, the Enforcer shall within thirty (30) days of receipt of Defendant's
18 response notify the Settling Defendant of the basis for its contention, the Notice shall be deemed
19 contested, and the Parties shall proceed under Section 6.2.4.

20 6.2.2.2 If the Settling Defendant does not serve a response within thirty
21 (30) days of receipt of the Notice, it shall be deemed to contest the Notice and the Parties shall
22 proceed under Section 6.2.4.

23 6.2.3 If the Settling Defendant elects not to contest a Notice of Violation served
24 under Section 6.2.1, the Settling Defendant shall do the following:

25 6.2.3.1 For the first Notice of Violation served on a particular Settling
26 Defendant, within fourteen (14) days after serving its response to the Notice of Violation, the
27 Settling Defendant shall take corrective action consisting of: (a) providing the Enforcer with
28 documentation sufficient to determine the certification status of Covered Products sold for the

1 two (2) years prior to the date of the Notice of Violation; and (b) pay the Enforcer \$5,000 as
2 reimbursement of fees, costs, and expenses involved in investigating and producing the Notice of
3 Violation and reviewing and monitoring compliance by such Settling Defendant in the future.

4 6.2.3.2 For Notices of Violation served on a particular Settling
5 Defendant after the first uncontested Notice of Violation, within ninety (90) days after serving its
6 response to the Notice of Violation, the Settling Defendant shall either:

7 (a) withdraw the Covered Product from sale in California and
8 direct customers to withdraw the Covered Product from sale in California; or

9 (b) provide a clear and reasonable warning pursuant to Section
10 5.3.2 for Covered Products sold by the Settling Defendant in California and instruct any
11 customers to provide such warning.

12 No later than fourteen (14) days after serving its response to the Notice of Violation, the Settling
13 Defendant shall pay the Enforcer \$10,000 as reimbursement of fees, costs, and expenses involved
14 in investigating and producing the Notice of Violation and reviewing and monitoring compliance
15 by such Settling Defendant in the future.

16 6.2.4 If any dispute arises relating to the sufficiency of any information provided
17 by an Enforcer or a Settling Defendant pursuant to this Section 6.2, or if the Settling Defendant
18 elects to contest a Notice of Violation, the Parties shall meet and confer as required by Section 6.1
19 before filing any motion, application, or request for an order with the court. A Settling Defendant
20 may at any time during the meet and confer process and prior to the Enforcer filing any motion,
21 application, or request for an order with the court, notify the Enforcer that the Settling Defendant
22 no longer contests the Notice and that the Settling Defendant elects to proceed pursuant to Section
23 6.2.3.

24 7. PAYMENTS

25 7.1 **Payments by Settling Defendant.** On or before ten (10) business days after
26 notice of the entry of this Consent Judgment and receipt of Forms W-9 for all payees, each
27 Settling Defendant shall pay the total sum set forth on Exhibit A for that Settling Defendant as a
28 settlement payment as further set forth in this Section.

1 7.3.1 Each Settling Defendant shall pay the CEH portion of the civil penalty
2 payment set forth in Exhibit A for that Settling Defendant by check made payable to the Center
3 for Environmental Health and associated with taxpayer identification number 94-3251981. This
4 payment shall be delivered to Lexington Law Group, LLP, 503 Divisadero Street, San Francisco,
5 CA 94117.

6 7.3.2 Each Settling Defendant shall pay the amount set forth in Exhibit A for that
7 Settling Defendant as an Additional Settlement Payment (“ASP”) to CEH pursuant to Health &
8 Safety Code §25249.7(b), and California Code of Regulations, Title 11, §3204. CEH will use
9 these funds to support CEH programs and activities that seek to educate the public about toxic
10 chemicals, including hormone disruptors such as hexavalent chromium, work with industries
11 interested in moving toward safer alternatives, advocate with government, businesses, and
12 communities for business practices that are safe for human health and the environment, and
13 thereby reduce the public health impacts and risks of exposure to hexavalent chromium and other
14 toxic chemicals in consumer products sold in California. CEH shall obtain and maintain adequate
15 records to document that ASPs are spent on these activities and CEH agrees to provide such
16 documentation to the Attorney General within thirty (30) days of any request from the Attorney
17 General. The payments pursuant to this Section shall be made payable to the Center for
18 Environmental Health and associated with taxpayer identification number 94-3251981. These
19 payments shall be delivered to Lexington Law Group, LLP, 503 Divisadero Street, San Francisco,
20 CA 94117.

21 7.3.3 Each Settling Defendant shall pay the amount set forth in Exhibit A for that
22 Settling Defendant as a reimbursement of a portion of CEH’s reasonable attorneys’ fees and costs
23 (including but not limited to expert and investigative costs). The attorneys’ fees and cost
24 reimbursement shall be made in two separate checks in the amounts set forth on Exhibit A for that
25 Settling Defendant as follows: (a) a check payable to the Lexington Law Group, LLP and
26 associated with taxpayer identification number 88-4399775; and (b) a check payable to the Center
27 for Environmental Health and associated with taxpayer identification number 94-3251981. Both
28

1 of these payments shall be delivered to Lexington Law Group, LLP, 503 Divisadero Street, San
2 Francisco, CA 94117.

3 7.3.4 A summary of the payments to be made by each Settling Defendant is set
4 forth on Exhibit A for each Settling Defendant including the specific payees, amounts, and
5 delivery entity for each check.

6 **8. MODIFICATION OF CONSENT JUDGMENT AND TERMINATION OF**
7 **INJUNCTIVE RELIEF**

8 8.1 **Modification.** This Consent Judgment may be modified from time to time by
9 express written agreement of the Parties to which any such modification would apply, with the
10 approval of the Court, or by an order of this Court upon motion and in accordance with law.

11 8.2 **Force Majeure.** The inability of a Settling Defendant to comply with any
12 deadline set forth in this Consent Judgment due to an act of terrorism, fire, earthquake, civil
13 disorders, war, or act of God that is beyond the reasonable control of such Settling Defendant
14 shall be grounds to move for modification of the deadlines set forth in this Consent Judgment.

15 8.3 **Most Favored Nations Provision.** If, after the Effective Date, a court enters
16 judgment in the Actions or another Proposition 65 enforcement action brought by CEH over
17 exposure to CrVI in Covered Products that imposes different injunctive relief from that set forth
18 in this Consent Judgment, a Settling Defendant may seek to modify Section 5 of this Consent
19 Judgment to conform with the injunctive relief provided in such later judgment.

20 8.4 **Termination of Injunctive Relief.**

21 8.4.1 If, after the Effective Date, a court enters judgment in the Actions or
22 another Proposition 65 enforcement action brought by CEH over exposure to CrVI in leather
23 gloves or footwear that denies a request for injunctive relief on the grounds that (a) CEH has not
24 shown an exposure to CrVI from Chrome-Tanned Leather, or (b) the defendant has demonstrated
25 that any exposure to CrVI from Chrome-Tanned Leather is exempt from the Proposition 65
26 warning requirement under Health & Safety Code §25249.10(c), a Settling Defendant may seek
27 to terminate the injunctive relief in Section 5 of this Consent Judgment as to that Settling
28 Defendant.

1 8.4.2 Commencing on the fifth (5th) anniversary of the Effective Date and upon
2 the provision of 30 days advanced written notice to CEH and the Court, a Settling Defendant may
3 terminate the injunctive relief in Section 5 of this Consent Judgment as to that Settling Defendant.
4 Upon any such termination, the provisions of Section 10.3 shall no longer apply to such Settling
5 Defendant.

6 8.5 **Notice; Meet and Confer.** Any Party seeking to modify this Consent Judgment
7 or terminate it pursuant to Section 8.4.1 shall attempt in good faith to meet and confer with all
8 affected Parties prior to filing a motion to modify the Consent Judgment.

9 **9. OPT-IN DEFENDANTS**

10 9.1 This Consent Judgment may be amended pursuant to the procedure set forth in the
11 Order Approving Opt-in Procedure and Future Amendment of Consent Judgment.

12 **10. CLAIMS COVERED AND RELEASE**

13 10.1 The Parties enter into this Consent Judgment as a full and final settlement of all
14 claims arising under Proposition 65 relating to alleged exposure to CrVI from footwear and/or
15 gloves made with Chrome-Tanned Leather components as further specified on Exhibit A for each
16 Settling Defendant (“Released Products”), and as to all claims pursuant to Health and Safety
17 Code §25249.7(d) that were raised or could have been raised in the CEH 60-Day Notices or
18 Complaints, arising from the failure to warn under Proposition 65 regarding the presence of CrVI
19 in such Released Products. Provided that a Settling Defendant has complied with Section 7
20 hereof, this Consent Judgment is a full, final, and binding resolution between CEH on behalf of
21 itself and the public interest and such Settling Defendant and its parents, subsidiaries, affiliated
22 entities that are under common ownership, directors, officers, employees, agents, shareholders,
23 successors, assigns, and attorneys (“Defendant Releasees”), and all entities to which such Settling
24 Defendant directly or indirectly distributes or sells Released Products, including but not limited to
25 its distributors, wholesalers, customers, retailers, franchisees, licensors, and licensees
26 (“Downstream Defendant Releasees”), of any violation of Proposition 65 based on failure to warn
27 about alleged exposure to CrVI contained in Released Products that were manufactured,
28 distributed, sold, or offered for sale by a Settling Defendant prior to the Final Compliance Date.

1 10.2 Provided that a Settling Defendant has complied with Section 7 hereof, CEH, for
2 itself and its agents, successors, and assigns, releases, waives, and forever discharges any and all
3 claims against such Settling Defendant, its Defendant Releasees, and its Downstream Defendant
4 Releasees arising from any violation of Proposition 65 or any other statutory or common law
5 claims that have been or could have been asserted by CEH regarding the failure to warn about
6 exposure to CrVI arising in connection with Released Products manufactured, distributed, sold, or
7 offered for sale by such Settling Defendant prior to the Final Compliance Date.

8 10.3 Provided that a Settling Defendant has complied with Section 7 hereof,
9 compliance with the terms of this Consent Judgment by such Settling Defendant shall constitute
10 compliance with Proposition 65 by such Settling Defendant, its Defendant Releasees, and its
11 Downstream Defendant Releasees with respect to any alleged failure to warn about CrVI in
12 Released Products manufactured, distributed, sold, or offered for sale by such Settling Defendant
13 after the Final Compliance Date, except as to any retailer who fails to provide warning provided
14 to said retailer pursuant to this Consent Judgment in a manner consistent with the requirements of
15 this Consent Judgment.

16 **11. PROVISION OF NOTICE**

17 11.1 When CEH is entitled to receive any notice under this Consent Judgment, the
18 notice shall be sent by first class or electronic mail to:

19 Joseph Mann
20 Lexington Law Group, LLP
21 503 Divisadero Street
22 San Francisco, CA 94117
23 jmann@lexlawgroup.com

24 11.2 When a Settling Defendant is entitled to receive any notice under this Consent
25 Judgment, the notice shall be sent by first class or electronic mail to the address listed on Exhibit
26 A for such Settling Defendant.

27 11.3 Any Party may modify the person and address to whom the notice is to be sent by
28 sending the other Party notice by first class or electronic mail.

1 **12. COURT APPROVAL**

2 12.1 This Consent Judgment shall become effective when approved by the Court. If
3 this Consent Judgment is not entered by the Court, it shall be of no further force or effect and
4 shall not be introduced into evidence or otherwise used in any proceeding for any purpose.

5 **13. GOVERNING LAW AND CONSTRUCTION**

6 13.1 The terms of this Consent Judgment shall be governed by the laws of the State of
7 California.

8 **14. ATTORNEYS' FEES**

9 14.1 Should CEH prevail on any motion, application for an order to show cause, or
10 other proceeding related to this Consent Judgment, CEH shall be entitled to its reasonable
11 attorneys' fees and costs incurred as a result of such motion or application from the Settling
12 Defendant(s) subject to or opposing said motion, application, or other proceeding. Should a
13 Settling Defendant prevail on any motion, application for an order to show cause, or other
14 proceeding related to this Consent Judgment, the Settling Defendant may be awarded its
15 reasonable attorneys' fees and costs as a result of such motion, application or other proceeding
16 upon a finding by the Court that CEH's prosecution of the motion, application, or other
17 proceeding lacked substantial justification.

18 14.2 Nothing in this Section 14 shall preclude a Party from seeking an award of
19 sanctions pursuant to law.

20 **15. ENTIRE AGREEMENT**

21 15.1 This Consent Judgment contains the sole and entire agreement and understanding
22 of the Parties with respect to the entire subject matter hereof, and any and all prior discussions,
23 negotiations, commitments, or understandings related thereto, if any, are hereby merged herein
24 and therein. There are no warranties, representations, or other agreements between the Parties
25 except as expressly set forth herein. No representations, oral or otherwise, express or implied,
26 other than those specifically referred to in this Consent Judgment have been made by any Party
27 hereto. No other agreements not specifically contained or referenced herein, oral or otherwise,
28 shall be deemed to exist or to bind any of the Parties hereto. Any agreements specifically

1 contained or referenced herein, oral or otherwise, shall be deemed to exist or to bind any of the
2 Parties hereto only to the extent that they are expressly incorporated herein. No waiver of any of
3 the provisions of this Consent Judgment shall be deemed or shall constitute a waiver of any of the
4 other provisions hereof whether or not similar, nor shall such waiver constitute a continuing
5 waiver.

6 **16. RETENTION OF JURISDICTION**

7 16.1 This Court shall retain jurisdiction of this matter to implement or modify the
8 Consent Judgment.

9 **17. SUCCESSORS AND ASSIGNS**

10 17.1 This Consent Judgment shall apply to and be binding upon CEH and each Settling
11 Defendant, and their respective divisions, subdivisions, and subsidiaries, and the successors or
12 assigns of any of them.

13 **18. AUTHORITY TO STIPULATE TO CONSENT JUDGMENT**

14 18.1 Each signatory to this Consent Judgment certifies that he or she is fully authorized
15 by the Party he or she represents to stipulate to this Consent Judgment and to enter into and
16 execute the Consent Judgment on behalf of the Party represented and to legally bind that Party.

17 **19. EFFECT ON OTHER SETTLEMENTS**

18 19.1 Nothing in this Consent Judgment shall preclude CEH from resolving any claim
19 against an entity that is not a Settling Defendant on terms that are different from those contained
20 in this Consent Judgment.

21 19.2 The entry and approval of this Consent Judgment shall be deemed a
22 "Reformulation Event" as such term is used in previous Consent Judgments entered by this Court
23 in these Actions.

24 **20. EXECUTION IN COUNTERPARTS**

25 20.1 The stipulations to this Consent Judgment may be executed in counterparts and by
26 means of portable document format (pdf), which taken together shall be deemed to constitute one
27 document.

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IT IS SO ORDERED:

Dated: _____, 2024

Judge of the Superior Court of California

IT IS SO STIPULATED:

Dated: _____, 2024

**CENTER FOR ENVIRONMENTAL
HEALTH**

Signature

Printed Name

Title

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IT IS SO ORDERED:

Dated: _____, 2023

Judge of the Superior Court of California

IT IS SO STIPULATED:

Dated: November 14, 2023

**CENTER FOR ENVIRONMENTAL
HEALTH**



Signature

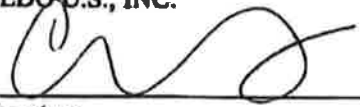
Kizzy Charles-Guzman
Printed Name

CEO
Title

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Dated: October 26, 2023

ALDO U.S., INC.



Signature

Catherine Ross

Printed Name

General Counsel and Senior Vice President

Title

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Dated: 11/2/2023, 2023

ARIAT INTERNATIONAL, INC.

DocuSigned by:
Pankaj Gupta
40CC02A7F838416
Signature

Pankaj Gupta
Printed Name

COO/CFO
Title

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Dated: Nov 1, 2023, 2023

CALERES, INC.

Tom Burke

Signature

Tom Burke

Printed Name

Senior Vice President, General Counsel & Secretary

Title

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Dated: Nov 1, 2023, 2023

DECKERS OUTDOOR CORPORATION

Thomas Garcia

THomas Garcia (Nov 1, 2023 08:27 PDT)

Signature

THomas Garcia

Printed Name

Chief Administrative Officer

Title

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Dated: NOVEMBER 2, 2023

FITFLOP USA, LLC

Ed Barker

Signature

ED BARKER

Printed Name

GROUP CFO

Title

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Dated: Nov. 3, 2023

HARBOR FREIGHT TOOLS U.S.A., INC.


Signature

Meryl K. Chae

Printed Name

EVP & General Counsel

Title

Dated: Nov. 3, 2023

CENTRAL PURCHASING, LLC


Signature

Meryl K. Chae

Printed Name

Authorized Signatory

Title

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Dated: November 2, 2023

KENNETH COLE PRODUCTIONS, INC.

Renada M. Williams

Signature

Renada M. Williams

Printed Name

VP, Legal

Title

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Dated: 30/OCTOBER, 2023

MAGNANNI, INC.



Signature

PAUL ROEHNBECK

Printed Name

CFO

Title

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Dated: October 25, 2023

MEPHISTO, INC.


Signature

Ken Davis
Printed Name

Vice President / COO
Title

Dated: October 25, 2023

MEPHISTO CONCEPT STORES, INC.


Signature

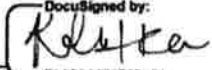
Ken Davis
Printed Name

Vice President / COO
Title

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Dated: 11/3/2023, 2023

NISOLO LLC

DocuSigned by:

 7A85AA80978340A
 Signature

Becky Hansen

Printed Name


VP Finance

Title

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Dated: November 2, 2023

NORDSTROM, INC.



Signature

Claire Korenblit

Printed Name

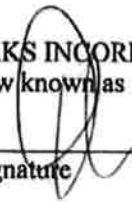
Sr Corporate Counsel

Title

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Dated: Nov 1, 2023

SAKS INCORPORATED
now known as SFA Holdings Inc.

Signature 

Printed Name

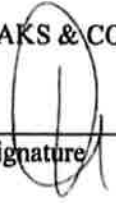
Thomas Obersteiner

Title

SVP, General Counsel

Dated: Nov 1, 2023

SAKS & COMPANY LLC

Signature 

Printed Name

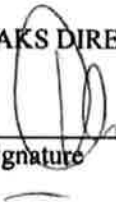
Thomas Obersteiner

Title

SVP, General Counsel

Dated: Nov 1, 2023

SAKS DIRECT LLC

Signature 

Printed Name

Thomas Obersteiner

Title

SVP, General Counsel

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Dated: 11-1, 2023

SHOES WEST, INC.



Signature

GLEN BARAD

Printed Name

President

Title

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Dated: 10/26, 2023

SKECHERS U.S.A., INC.



Signature

David Weinberg

Printed Name

COO

Title

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Dated: October 26, 2023

STEVEN MADDEN, LTD.

DocuSigned by:
Lisa Keith
3D80EFF445EF496
Signature

Lisa Keith
Printed Name

General Counsel
Title

Dated: October 26, 2023

STEVEN MADDEN RETAIL, INC.

DocuSigned by:
Lisa Keith
3D80EFF445EF496
Signature

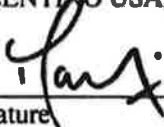
Lisa Keith
Printed Name

General Counsel
Title

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Dated: OCT 24, 2023

VALENTINO USA, INC.



Signature

DANIEL PARTRIDGE

Printed Name

CEO VALENTINO AMERICAS

Title

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Dated: 10/26, 2023

WEYCO GROUP, INC.

Thomas W Florsheim Jr
Signature

Thomas W Florsheim Jr
Printed Name

CEO / Chairman
Title

Dated: _____, 2023

DESIGNER BRANDS, INC.

Signature

Printed Name

Title

Dated: _____, 2023

DSW SHOE WAREHOUSE, INC.

Signature

Printed Name

Title

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Dated: _____, 2023

WEYCO GROUP, INC.

Signature

Printed Name

Title

Dated: October 30, 2023

DESIGNER BRANDS, INC.



Signature

Miriam Shoap
Printed Name

Sr. Manager, Legal Services
Title

Dated: October 30, 2023

DSW SHOE WAREHOUSE, INC.



Signature

Miriam Shoap
Printed Name

Sr. Manager, Legal Services
Title

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Dated: November 2, 2023

WOLVERINE WORLD WIDE, INC.

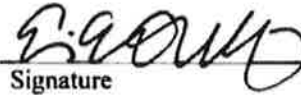

Signature

Erin E. Drndorff
Printed Name

Senior Corporate Counsel
Title

Dated: November 2, 2023

WOLVERINE OUTDOORS, INC.


Signature

Erin E. Drndorff
Printed Name

Senior Corporate Counsel
Title

Dated: November 2, 2023

SPERRY TOP-SIDER, LLC


Signature

Erin E. Drndorff
Printed Name

Senior Corporate Counsel
Title

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Dated: November 2, 2023

HUSH PUPPIES RETAIL, INC.


Signature

Erin E. Omdorff
Printed Name

Senior Corporate Counsel
Title

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EXHIBIT A

Individual Settling Defendant Information

1 **Settling Defendant:** ALDO U.S., INC.
2 **Covered Products:** Footwear Made With Leather Materials
3 **Payment Amounts:** Total: \$67,500

4 **Allocation of Total Payment:**

5

Payee	Type	Amount	Deliver To
OEHHA	Penalty	\$ 6,713	OEHHA per Section 7.3
Center For Environmental Health	Penalty	\$ 2,237	LLG
Center For Environmental Health	ASP	\$ 6,710	LLG
Center For Environmental Health	Fees and Costs	\$ 8,080	LLG
Lexington Law Group, LLP	Fees and Costs	\$ 43,760	LLG

6
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12 **Contact Information:** Catherine Ross
13 Name
14 905 Hodge Street
15 Address
16 Saint-Laurent, Quebec H4N 2B3
17 cross@aldogroup.com
18 Email address

19
20 **[Optional Second Contact]** Legal Department
21 Name
22 905 Hodge Street
23 Address
24 Saint-Laurent, Quebec H4N 2B3
25 legal-team@aldogroup.com
26 Email address
27
28

1 Settling Defendant: ARIAT INTERNATIONAL, INC.
2 Covered Products: Footwear Made With Leather Materials
3 Payment Amounts: Total: \$57,500

4 Allocation of Total Payment:

5

Payee	Type	Amount	Deliver To
6 OEHHA	Penalty	\$ 5,685	OEHHA per Section 7.3
7 Center For Environmental Health	Penalty	\$ 1,895	LLG
8 Center For Environmental Health	ASP	\$ 5,680	LLG
9 Center For Environmental Health	Fees and Costs	\$ 6,880	LLG
10 Lexington Law Group, LLP	Fees and Costs	\$ 37,360	LLG

11

12 Contact Information: Ariat International, Inc.
13 Name
14 1500 Alvarado St Suite 100,
15 Address
16 San Leandro, CA 94577
17 legal@ariat.com
18 Email address

19
20 [Optional Second Contact] Jeffrey Margulies, Norton Rose Fulbright US LLP
21 Name
22 555 S. Flower Street, 41st Floor
23 Address
24 Los Angeles, CA 90071
25 jeff.margulies@nortonrosefulbright.com
26 Email address
27
28

1 Settling Defendant: CALERES, INC.
2 Covered Products: Footwear Made With Leather Materials
3 Payment Amounts: Total: \$67,500

4 Allocation of Total Payment:

5

Payee	Type	Amount	Deliver To
6 OEHHA	Penalty	\$ 6,713	OEHHA per Section 7.3
7 Center For Environmental Health	Penalty	\$ 2,237	LLG
8 Center For Environmental Health	ASP	\$ 6,710	LLG
9 Center For Environmental Health	Fees and Costs	\$ 8,080	LLG
10 Lexington Law Group, LLP	Fees and Costs	\$ 43,760	LLG

11

12 Contact Information: Office of General Counsel, Attention Tom Burke

13 Name

14 8300 Maryland Ave

15 Address

16 St Louis, MO 63105

17 Tburke@caleres.com

18 Email address

19

20 [Optional Second Contact] Jeffrey Margulies, Norton Rose Fulbright US LLP

21 Name

22 555 S. Flower Street, 41st Floor

23 Address

24 Los Angeles, CA 90071

25 jeff.margulies@nortonrosefulbright.com

26 Email address

27

28

1 Settling Defendant: DECKERS OUTDOOR CORPORATION

2 Covered Products: Footwear Made With Leather Materials

3 Payment Amounts: Total: \$62,500

4 Allocation of Total Payment:

5

Payee	Type	Amount	Deliver To
OEHHA	Penalty	\$ 6,199	OEHHA per Section 7.3
Center For Environmental Health	Penalty	\$ 2,066	LLG
Center For Environmental Health	ASP	\$ 6,195	LLG
Center For Environmental Health	Fees and Costs	\$ 7,480	LLG
Lexington Law Group, LLP	Fees and Costs	\$ 40,560	LLG

6

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11

12 Contact Information: Thomas Garcia
13 Name

14 250 Coromar Dr.
15 Address

16 Goleta, CA 93117

17 tom.garcia@deckers.com
18 Email address

19

20 [Optional Second Contact] Jeffrey Margulies, Norton Rose Fulbright US LLP
21 Name

22 555 South Flower Street, Forty-First Floor
23 Address

24 Los Angeles, CA 90071

25 jeff.margulies@nortonrosefulbright.com
26 Email address

27

28

1 **Settling Defendant:** HARBOR FREIGHT TOOLS U.S.A., INC.
CENTRAL PURCHASING, LLC
2
3 **Covered Products:** Work and Gardening Gloves Made With Leather Materials
4
5 **Payment Amounts:** Total: \$67,500

6 **Allocation of Total Payment:**

Payee	Type	Amount	Deliver To
OEHHA	Penalty	\$ 6,713	OEHHA per Section 7.3
Center For Environmental Health	Penalty	\$ 2,237	LLG
Center For Environmental Health	ASP	\$ 6,710	LLG
Center For Environmental Health	Fees and Costs	\$ 8,080	LLG
Lexington Law Group, LLP	Fees and Costs	\$ 43,760	LLG

12
13 **Contact Information:** Meryl K. Chae
Name
14 Harbor Freight Tools - Legal Department
15 Address
16 26677 Agoura Road, Calabasas, CA 91302
17
18 mchae@harborfreight.com
19 Email address

20 [Optional Second Contact] Tammy Stafford
21 Name
22 Harbor Freight Tools - Legal Department
23 Address
24 26677 Agoura Road, Calabasas, CA 91302
25
26 tstafford@harborfreight.com
27 Email address
28

1 Settling Defendant: KENNETH COLE PRODUCTIONS, INC.

2 Covered Products: Footwear Made With Leather Materials

3 Payment Amounts: Total: \$50,000

4 Allocation of Total Payment:

5

Payee	Type	Amount	Deliver To
OEHHA	Penalty	\$ 4,913	OEHHA per Section 7.3
Center For Environmental Health	Penalty	\$ 1,637	LLG
Center For Environmental Health	ASP	\$ 4,910	LLG
Center For Environmental Health	Fees and Costs	\$ 5,980	LLG
Lexington Law Group, LLP	Fees and Costs	\$ 32,560	LLG

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12 Contact Information: Renada M. Williams

13 Name

14 511 W 21st New York, NY 10011

15 Address

16 _____

17 rwilliams@kennethcole.com

18 Email address

19

20 [Optional Second Contact] David Edelman

21 Name

22 511 W 21st New York, NY 10011

23 Address

24 _____

25 dedelman@kennethcole.com

26 Email address

27

28

1 Settling Defendant: MAGNANNI, INC.
2 Covered Products: Footwear Made With Leather Materials
3 Payment Amounts: Total: \$35,000

4 Allocation of Total Payment:

Payee	Type	Amount	Deliver To
OEHHA	Penalty	\$ 3,372	OEHHA per Section 7.3
Center For Environmental Health	Penalty	\$ 1,123	LLG
Center For Environmental Health	ASP	\$ 3,365	LLG
Center For Environmental Health	Fees and Costs	\$ 4,180	LLG
Lexington Law Group, LLP	Fees and Costs	\$ 22,960	LLG

12 Contact Information: PAUL ROENRENBECK
13 Name
14 9065 SMITHS MILL ROAD NORTH
15 Address
16 NEW ALBANY OH 43054
17
18 PAULR@MAGNANNI.COM
19 Email address

20 [Optional Second Contact] PASCUAL BLANCO
21 Name
22 9065 SMITHS MILL ROAD NORTH
23 Address
24 NEW ALBANY OH 43054
25
26 PASCUAL@MAGNANNI.COM
27 Email address

1 Settling Defendants: MEPHISTO, INC.
MEPHISTO CONCEPT STORES, INC.
2
3 Covered Products: Footwear Made With Leather Materials
4
5 Payment Amounts: Total: \$57,500

Allocation of Total Payment:

Payee	Type	Amount	Deliver To
OEHHA	Penalty	\$ 5,685	OEHHA per Section 7.3
Center For Environmental Health	Penalty	\$ 1,895	LLG
Center For Environmental Health	ASP	\$ 5,680	LLG
Center For Environmental Health	Fees and Costs	\$ 6,880	LLG
Lexington Law Group, LLP	Fees and Costs	\$ 37,360	LLG

12
13 Contact Information: Betsy Noble - Accounts Payable
Name
14 305 Seaboard Lane, Suite 328
Address
15 Franklin , TN 37067
16
17 betsy.noble@mephistousa.com
18 Email address
19

20 [Optional Second Contact] Ken Davis - VP/COO
21 Name
22 305 Seaboard Lane, Suite 328
23 Address
24 Franklin , TN 37067
25 ken.davis@mephistousa.com
26 Email address
27
28

1 Settling Defendant: NISOLO LLC
 2 Covered Products: Footwear Made With Leather Materials
 3 Payment Amounts: Total: \$57,500

4 Allocation of Total Payment:

5 Payee	Type	Amount	Deliver To
6 OEHHA	Penalty	\$ 5,685	OEHHA per Section 7.3
7 Center For Environmental Health	Penalty	\$ 1,895	LLG
8 Center For Environmental Health	ASP	\$ 5,680	LLG
9 Center For Environmental Health	Fees and Costs	\$ 6,880	LLG
10 Lexington Law Group, LLP	Fees and Costs	\$ 37,360	LLG

12 Contact Information:

Becky Hansen

13 Name

14 1803 9th Ave N

15 Address

16 Nashville, TN 37208

17 becky@nisolo.com

18 Email address

19 [Optional Second Contact]

20 Name

21 Address

22 Email address

1 Settling Defendant: NORDSTROM, INC.
2 Covered Products: Private Label Footwear Made With Leather Materials
3 Payment Amounts: Total: \$35,000

4 Allocation of Total Payment:

5

Payee	Type	Amount	Deliver To
6 OEHHA	Penalty	\$ 3,372	OEHHA per Section 7.3
7 Center For Environmental Health	Penalty	\$ 1,123	LLG
8 Center For Environmental Health	ASP	\$ 3,365	LLG
9 Center For Environmental Health	Fees and Costs	\$ 4,180	LLG
10 Lexington Law Group, LLP	Fees and Costs	\$ 22,960	LLG

11

12 Contact Information: General Counsel
13 Name
14 1617 6th Avenue
15 Address
16 Seattle, WA 98101
17 sop@nordstrom.com
18 Email address

19
20 [Optional Second Contact] Jeffrey Margulies, Norton Rose Fulbright US LLP
21 Name
22 555 S. Flower Street, 41st Floor
23 Address
24 Los Angeles, CA 90071
25 jeff.margulies@nortonrosefulbright.com
26 Email address
27
28

1 Settling Defendant: SAKS INCORPORATED
2 SAKS & COMPANY LLC
3 SAKS DIRECT LLC

4 Covered Products: Footwear Made With Leather Materials

5 Payment Amounts: Total: \$35,000

6 Allocation of Total Payment:

7 Payee	Type	Amount	Deliver To
8 OEHHA	Penalty	\$ 3,372	OEHHA per Section 7.3
9 Center For Environmental Health	Penalty	\$ 1,123	LLG
10 Center For Environmental Health	ASP	\$ 3,365	LLG
11 Center For Environmental Health	Fees and Costs	\$ 4,180	LLG
12 Lexington Law Group, LLP	Fees and Costs	\$ 22,960	LLG

13
14 Contact Information: Christopher Hornig
Name

15 225 Liberty St.
16 Address

17 Floor 26 , New York, NY
18 10281

19 chris.hornig@saks off 5th.com
20 Email address

21 [Optional Second Contact] Meagan Crowley
22 Name

23 225 Liberty St. , Floor 25
24 Address

25 New York, NY 10281

26 meagan.crowley@saks.com
27 Email address

28

1 Settling Defendant: SHOES WEST, INC.
2 Covered Products: Footwear Made With Leather Materials
3 Payment Amounts: Total: \$57,500

4 Allocation of Total Payment:

Payee	Type	Amount	Deliver To
OEHHA	Penalty	\$ 5,685	OEHHA per Section 7.3
Center For Environmental Health	Penalty	\$ 1,895	LLG
Center For Environmental Health	ASP	\$ 5,680	LLG
Center For Environmental Health	Fees	\$ 6,880	LLG
Lexington Law Group, LLP	Fees and Costs	\$ 37,360	LLG

12 Contact Information: BILL LANGRELL
13 Name
14 18701 S. FIGUEROA ST.
15 Address
16 GARDENA, CA 90248
17
18 blangrell@daosfootwear.com
19 Email address

20 [Optional Second Contact] _____
21 Name
22 _____
23 Address
24 _____
25 _____
26 Email address

1 **Settling Defendant:** SKECHERS U.S.A., INC.
2 **Covered Products:** Footwear Made With Leather Materials
3 **Payment Amounts:** Total: \$67,500

4 **Allocation of Total Payment:**

5

Payee	Type	Amount	Deliver To
OEHHA	Penalty	\$ 6,713	OEHHA per Section 7.3
Center For Environmental Health	Penalty	\$ 2,237	LLG
Center For Environmental Health	ASP	\$ 6,710	LLG
Center For Environmental Health	Fees	\$ 8,080	LLG
Lexington Law Group, LLP	Fees and Costs	\$ 43,760	LLG

6
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12 **Contact Information:** Hazel Ocampo
13 Name
14 12760 High Bluff Drive, Suite 240
15 Address
16 San Diego, CA 92130
17 ocampoh@gtlaw.com
18 Email address

19
20 **[Optional Second Contact]** Madeline Orlando
21 Name
22 400 Capitol Mall, Suite 2400
23 Address
24 Sacramento, CA 95814
25 orlandom@gtlaw.com
26 Email address

27
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Settling Defendant: STEVEN MADDEN, LTD.
STEVEN MADDEN RETAIL, INC.

Covered Products: Footwear Made With Leather Materials

Payment Amounts: Total: \$50,000

Allocation of Total Payment:

Payee	Type	Amount	Deliver To
OEHHA	Penalty	\$ 4,913	OEHHA per Section 7.3
Center For Environmental Health	Penalty	\$ 1,637	LLG
Center For Environmental Health	ASP	\$ 4,910	LLG
Center For Environmental Health	Fees	\$ 5,980	LLG
Lexington Law Group, LLP	Fees and Costs	\$ 32,560	LLG

Contact Information: Lisa Keith
Name

52-16 Barnett Avenue
Address

Long Island City, NY 11104

GeneralCounsel@stevemadden.com
Email address

[Optional Second Contact] Amy Lally
Name

1999 Avenue of the Stars, 17th Floor
Address

Los Angeles, CA 90067

alally@sidley.com
Email address

1 Settling Defendant: VALENTINO USA, INC.
2 Covered Products: Footwear Made With Leather Materials
3 Payment Amounts: Total: \$50,000

4 Allocation of Total Payment:

Payee	Type	Amount	Deliver To
OEHHA	Penalty	\$ 4,913	OEHHA per Section 7.3
Center For Environmental Health	Penalty	\$ 1,637	LLG
Center For Environmental Health	ASP	\$ 4,910	LLG
Center For Environmental Health	Fees	\$ 5,980	LLG
Lexington Law Group, LLP	Fees and Costs	\$ 32,560	LLG

12 Contact Information: DANIEL PALTRIDGE
13 Name
14 11 W 42nd STREET # 26
15 Address
16 NY NY 10036
17 daniel.paltridge@valentino.com
18 Email address

20 [Optional Second Contact] _____
21 Name
22 _____
23 Address
24 _____
25 _____
26 Email address

1 Settling Defendant: WEYCO GROUP, INC.
2 DESIGNER BRANDS, INC.
3 DSW SHOE WAREHOUSE, INC.

4 Covered Products: Footwear Made With Leather Materials

5 As to DESIGNER BRANDS, INC. and DSW SHOE WAREHOUSE, INC., "Covered Products"
6 means Footwear Made With Leather Materials Supplied by Weyco Group, Inc.

7 Payment Amounts: Total: \$50,000

8 Allocation of Total Payment:

Payee	Type	Amount	Deliver To
OEHHA	Penalty	\$ 4,913	OEHHA per Section 7.3
Center For Environmental Health	Penalty	\$ 1,637	LLG
Center For Environmental Health	ASP	\$ 4,910	LLG
Center For Environmental Health	Fees	\$ 5,980	LLG
Lexington Law Group, LLP	Fees and Costs	\$ 32,560	LLG

14 Contact Information:

15 Judy Anderson
16 Name

17 333 W. Estabrook Blvd
18 Address

19 Glendale, WI 53212

20 janderson@weycogroup.com
21 Email address

22 [Optional Second Contact]

23 Allison Woss
24 Name

25 333 W. Estabrook Blvd
26 Address

27 Glendale, WI 53212

28 awoss@weycogroup.com
Email address

1 Settling Defendant: WOLVERINE WORLD WIDE, INC.
2 WOLVERINE OUTDOORS, INC.
3 SPERRY TOP-SIDER, LLC
4 HUSH PUPPIES RETAIL, INC.
5 Covered Products: Footwear Made With Leather Materials
6 Payment Amounts: Total: \$67,500

Allocation of Total Payment:

Payee	Type	Amount	Deliver To
OEHHA	Penalty	\$ 6,713	OEHHA per Section 7.3
Center For Environmental Health	Penalty	\$ 2,237	LLG
Center For Environmental Health	ASP	\$ 6,710	LLG
Center For Environmental Health	Fees	\$ 8,080	LLG
Lexington Law Group, LLP	Fees and Costs	\$ 43,760	LLG

13
14 Contact Information: Erin E. Orndorff
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17 Rockford, MI 49351
18
19 erin.orndorff@wwwinc.com
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21 [Optional Second Contact] Jeffrey Margulies, Norton Rose Fulbright US LLP
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24 Address
25 Los Angeles, CA 90071
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28 Email address

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EXHIBIT B
Tannery Certification

**EXHIBIT B
TANNERY CERTIFICATION**

Tannery Name: _____

Address: _____

I certify as follows:

All chrome-tanned leather produced by the tannery after the date of this certification will be tanned consistent with the Reformulation Protocol attached as Exhibit C to the Consent Judgment in *Center for Environmental Health v. Bali Leathers, Inc., et al.*, Lead Case No. RG19029736 (consolidated with *Center for Environmental Health v. Tommy Baham Group, Inc., et al.*, Case No. RG 19-034870), for purposes of establishing good manufacturing practices and measures for chrome-tanned or chrome-retanned leather in order to eliminate or minimize the presence and potential formation of hexavalent chromium (CrVI) in such leather intended for footwear and glove products sold in California. Specifically, the tannery will comply with the Reformulation Protocol to eliminate or minimize the formation of hexavalent chromium in chrome-tanned or chrome-retanned leather and shall provide transport and storage instructions specifying recommended temperature, humidity, and light conditions sufficient to maintain physical and chemical properties of the leather relevant to CrVI formation.

The tannery will retain records demonstrating compliance with the Reformulation Protocol for a period of at least five years and provide such records on written request by any customer.

Signature: _____

Name: _____

Title: _____

Email address: _____

Date: _____

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EXHIBIT C
Reformulation Protocols

**LEATHER TANNING/FINISHING PROTOCOL
FOR COMPLIANCE WITH PROPOSITION 65 REQUIREMENTS TO
MINIMIZE POTENTIAL FORMATION OF HEXAVALENT CHROMIUM**

Background: For purposes of compliance with Proposition 65, the following Protocol is intended to establish good manufacturing practices and measures for chrome-tanned or chrome-retanned leather in order to eliminate or minimize the presence and potential formation of hexavalent chromium (CrVI) in such leather intended for footwear and glove products sold in California. Settling Defendants shall be required to comply with the terms of the Protocol prior to manufacturing or processing leather footwear/gloves for sale in California or to require compliance with the Protocol by third party manufacturers and suppliers of leather intended for such products.

Certification with overall Gold rating under the Leather Working Group (LWG) Audit Protocol shall be considered in assessing compliance with this Protocol. For companies attaining a lower overall LWG medal rating, compliance assessment also shall consider attainment of Gold rating in the sections of the LWG Protocol relating to Restricted Substances Lists and Chemical Management (currently Section 9 "Restricted Substances, Compliance, Chromium VI Management" and Section 16 "Chemical Management" of Issue 7.2.2 of the LWG Protocol).

Leather Tanning/Finishing Protocol

The following protocol for chrome-tanners/retanners identifies good manufacturing practices recognized by the leather tanning industry to eliminate or minimize the formation of hexavalent chromium in chrome-tanned or chrome re-tanned leather. Tannery shall provide transport and storage instructions specifying recommended temperature, humidity, and light conditions sufficient to maintain physical and chemical properties of the leather relevant to CrVI formation.

Upon written agreement of the Parties, this Protocol may be re-evaluated and revised appropriately to reflect advances in technology and production processes. Unless otherwise noted, references to test methods, detection limits, and other standards are to the version in place as of adoption of this Protocol.

1. Process Stage: Beamhouse

- 1.1. **Degreasing:** Thorough degreasing processes must be employed to reduce the presence of natural fats that can diminish leather quality and potentially contribute to CrVI formation.
 - 1.1.1. Perform thorough and consistent degreasing during beamhouse operations involving sheepskin, pigskin, and other high-fat content hides (*i.e.*, fat content over 3% dry weight basis). These materials can be very greasy and may require a specific, separate degreasing operation to reduce the fat content.
 - 1.1.2. Processing of bovine hides should include the use of surfactants to ensure fat content less than 3% dry weight basis.
 - 1.1.3. Use of halogenated organic degreasing agents is prohibited.
 - 1.1.4. Use only aqueous degreasing agents.

- 1.1.5. Do not use products with oxidative potential.
- 1.1.6. If bleaching is required (under exceptional circumstances to reduce natural skin pigmentation when producing very pale leather), products with oxidative potential may be necessary. If used, the process should incorporate iodine-starch paper for each batch of leather being processed to check oxidative potential and, if necessary, use reducing agent prior to addition of chromium in tanning stage.
- 1.1.7. Wash limed hides/pelts properly after liming and decalcifying.

2. Process Stage: Tanning/Wet Blue

- 2.1. Tanning Agents: Chromium-containing tanning agents must not contain intentionally added or detectable levels¹ of CrVI.
 - 2.1.1. Obtain from chemical supplier test reports for each supplier production batch conducted pursuant to ISO 19071 for CrVI in chromium tanning agents demonstrating detectable levels of CrVI no higher than the levels specified in the most current version of the ZDHC Manufacturing Restricted Substances List ("MRSL")² (as analyzed by the test method specified therein).
 - 2.1.2. Maintain inventory control to ensure quality of tanning agents at time of use. Use of tanning/retanning agents past their "use by" date is prohibited.
 - 2.1.3. Tanning process vessels and associated make-up and delivery systems to be thoroughly cleaned and maintained using best practices.
 - 2.1.4. Water used during the tanning process and to clean apparatus, tubs, tools, and other equipment must have undetectable levels of CrVI.
 - 2.1.4.1. Recycled water must be tested regularly (at least annually) and verified as having undetectable levels of CrVI; water received directly from municipal or permitted wells does not require repeat verification of CrVI levels but should be analyzed to confirm absence of CrVI.
 - 2.1.5. Storage conditions must be maintained in accordance with chemical supplier instructions. Storage of chemicals outside of manufacturer recommendations is prohibited, unless representative samples of the chemicals are tested to confirm undetectable levels of CrVI no later than one month prior to use. ISO 19071 or other CrVI test methods appropriate to the chemical shall be employed.
 - 2.1.6. Final wash must be employed to remove unfixed chrome to the extent feasible.
 - 2.1.7. Use of chromium tanning agents recycled by the tannery is prohibited unless tested regularly (at least annually) to confirm undetectable CrVI via ISO 19071.
- 2.2. Use of Oxidizing Agents: The use of oxidizing agents such as sodium chlorite (or hypochlorite) in the pickle, or of potassium permanganate in pre-tanning wet-end operations, increases the risk of the formation of CrVI.

¹ The terms "detectable/undetectable levels" of CrVI shall be defined by the relevant test method appropriate for the chemical.

² The ZDHC MRSL is the minimum standard for the CrVI standard in this Protocol. Reference to other CrVI limits from other MRSLs may be used if they meet or exceed the stringency of the ZDHC standard. The current version of the ZDHC MRSL is v.3.1 and can be found at: <https://mrsl-30.roadmaptozero.com/mrslpdf?for=Consultancy>. All references to the ZDHC MRSL in this Protocol refer to the then most current version of the ZDHC MRSL. This note applies to all references to ZDHC in this Protocol.

- 2.2.1. Oxidizing agents may only be used if they can be shown to be absolutely necessary (e.g., for white or pastel shades) and if the residuals are reduced prior to the addition of chrome tanning agents. Starch-iodide test papers (must show no color development) or Oxidation-Reduction Potential ("ORP") measurement (must show a negative reading indicating a reducing agent) shall be used to confirm lack of oxidative potential.
- 2.3. Measure and monitor levels of residual natural fats in wet blue leather. Bovine leather shall contain no more than 3% residual fat as measured below. Pigskin leather shall contain no more than 7% residual fat, as measured below. Other leather (e.g., sheep, goat, etc.) shall contain no more than 4% fat, as measured below.
 - 2.3.1. Monitoring must indicate an average grease content of less than 3% (bovine) or 4% (other) by weekly analysis or per 30 batches of production, whichever is the more frequent. For pigskin, monitoring must indicate an average grease content of less than 7% by monthly analysis or per 30 batches of production, whichever is the more frequent. (A "batch" is a production drum load or a group of hides/skins that are processed together as a unit.)
 - 2.3.2. Alternatively, the wet blue leather must have a maximum of 0.5% of Free Fatty Acids (using test method ISO 4048:2018)
- 2.4. If wet blue is used as a starting material: Wet blue bought from other suppliers must be shown to be free of CrVI (using the ISO 17075-2 test method after ageing procedure) and to have fat content less than 3% (bovine), 7% (pigskin), or 4% (other). For pigskin with fat content over 4%, additional degreasing shall be performed before or during the retan stage to reduce fat content below 4%.

3. Process Stage: Retanning/Wet End/Finishing

- 3.1. Retanning Agents: Optimization of chrome fixation is critical to reduce extractable chrome levels and the potential for CrVI formation.
 - 3.1.1. Use of oxidizing agents (such as ammonia-based chemicals/bleach) after chrome tanning is prohibited.
 - 3.1.2. Confirm selection of appropriate retanning agents for binding behavior and/or use of complexing agents. Maintain documentation.
 - 3.1.3. Chromium-containing retanning agents must not contain intentionally added or detectable levels of CrVI higher than the levels specified in the ZDHC MRSL.
 - 3.1.4. Obtain from chemical supplier test reports conducted pursuant to ISO 19071 demonstrating undetectable levels of CrVI.
 - 3.1.5. Maintain inventory control to ensure quality of retanning agents at time of use. Use of retanning agents past their "use by" date is prohibited.
- 3.2. Retanning process vessels and associated make-up and delivery systems to be thoroughly cleaned and maintained using best practices.
- 3.3. Water used during retanning process and to clean apparatus, tubs, tools, and other equipment must have undetectable levels of CrVI. Recycled water must be tested

regularly (at least annually) and verified as having undetectable levels of CrVI; water received directly from municipal or permitted wells does not require repeat verification of CrVI levels but should be analyzed to confirm absence of CrVI.

- 3.4. Storage conditions must be maintained in accordance with chemical supplier instructions. Storage of chemicals outside of manufacturer recommendations is prohibited, unless representative samples of the chemicals are tested to confirm undetectable levels of CrVI no later than one month prior to use. ISO 19071 or other CrVI test methods appropriate to the chemical shall be employed.
- 3.5. Final wash must be employed to remove unfixed chrome to the extent feasible.
- 3.6. Use of chromium retanning agents recycled by the tannery is prohibited unless tested regularly (at least annually) to confirm undetectable CrVI via ISO 19071.
- 3.7. Use scavenging agents, such as 1%-3% vegetable tanning extracts, for antioxidant protection, or use commercially-available synthetic antioxidants specifically formulated for the purpose and according to manufacturer specifications. (Antioxidants may be introduced directly or as part of the retanning agent formulation.)
 - 3.7.1. Add antioxidants during retanning process to enable longer-lasting antioxidant efficacy. Use of only spray-on antioxidants is prohibited.
- 3.8. Dyes and Pigments:
 - 3.8.1. Dye and pigments must not contain intentionally added or detectable levels of CrVI.
 - 3.8.2. Obtain from chemical supplier test reports conducted pursuant to ISO or EPA test method for CrVI demonstrating undetectable levels of CrVI.
 - 3.8.3. Obtain from chemical supplier certification that dyes or pigments lack oxidative potential (through ORP measurement showing a negative reading indicating a reducing agent or other appropriate method).
 - 3.8.4. If chromium-containing dyes or pigments are used, final product must be tested annually (or sooner if there is a change in formula) to confirm levels of CrVI below detection limit. Test using ISO 17075-2.
 - 3.8.5. Use of dyes and pigments must be compliant with the ZDHC MRSL.
- 3.9. Bleaches:
 - 3.9.1. Use of aggressive bleaches, peroxides, and potassium permanganate (KMnO₄) as bleaching agents after tanning is prohibited.
- 3.10. Fatliquors: Fatliquors must be suitably formulated with an appropriate antioxidant to protect against CrVI formation. Fish and vegetable oils in particular must be formulated with an appropriate antioxidant to protect against CrVI formation. Do not use fatliquors without having first obtained from the supplier a statement confirming that fatliquors are formulated with an appropriate antioxidant.

- 3.11. Inventory control must be maintained to ensure quality of fatliquors at time of use and that all fatliquors are used prior to "use by" dates.
- 3.12. Chemical storage conditions must be maintained in accordance with chemical supplier instructions to avoid fatliquor breakdown. Storage in conditions outside of manufacturer recommendations is prohibited, unless representative samples of the chemicals are tested to confirm the absence of oxidative potential no later than one month prior to use. Starch-iodide test papers (must show no color development) or ORP measurement (must show a negative reading indicating a reducing agent) shall be used to confirm lack of oxidative potential.
4. **Finishing Oils/Waxes:** Oils and wax finishes containing a high level of unsaturated fats are more likely associated with CrVI formation.
 - 4.1. Obtain from supplier a statement confirming that finishing oils and waxes are suitable for use and do not contribute to CrVI formation (such as by indicating compliance with ZDHC MRSL specifications).
5. **pH Levels:** Careful monitoring of pH through the entire set of tanning, retanning, fatliquoring, and dyeing process stages is critical to the avoidance of CrVI in the finished leather product. The potential for formation of CrVI increases at higher pH. While the neutralization process during wet end retanning will raise pH, this will be reversed during subsequent acidification and fixation.
 - 5.1. The pH must be maintained below 4.0 in the final bath (fixation) of the re-tanning process to ensure entire cross-section of leather is at acidic pH. Maintain documentation of final pH.
 - 5.2. Acidification at the end of wet end processing should be done in a steady manner with 2-3 additions of acid.
 - 5.3. Allow sufficient time to ensure complete acid penetration, depending on thickness and other processing conditions.
 - 5.4. The pH through the entire leather cross-section must be consistently below 4.5 in finished leather. Document final pH of leather determined during research and development. Conduct random audit sampling to ensure pH of final leather product is below 4.5 and maintain documentation.
6. **Final Wash:** Final wash must be employed to remove unfixed chrome. The pH of wash waters may need to be adjusted (lowered) to avoid localized, surface raising of pH.
 - 6.1. Drying: Solar irradiation is prohibited during drying of the leather.

7. **Mold:**

- 7.1. Use of ammonia to prevent mold formation is prohibited. If a fungicide is to be used to prevent mold formation a declaration should be obtained from the manufacturer to confirm that its use will not contribute to the potential formation of CrVI.

8. **Process Stage: Storage and Transportation**

- 8.1. Storage and transportation conditions must be monitored to maintain temperature, humidity, and light exposure to reduce the possibility of CrVI formation. Tannery shall provide storage instructions specifying recommended temperature, humidity, and light conditions sufficient to maintain physical and chemical properties of the leather.

9. **Good Manufacturing and Quality Control Standards**

- 9.1. The following quality assurance procedures must be implemented in order to ensure the prevention of CrVI formation throughout the entire production process:
- 9.1.1. Ensure cleanliness and good organization within the entire production facility.
 - 9.1.2. Storage conditions must be regularly checked to ensure that chemical degradation does not occur.
 - 9.1.3. Inventory control (received date, use by date, supplier, batch number, stores location, *etc.*) must be undertaken to ensure that chemicals are not used past their use-by date.
 - 9.1.4. Train employees in the safe use of chemicals and the correct make-up and application procedures for their use in each stage of the process. Educate workers about the potential for formation of CrVI, its potential for harm in the final product, and their role in ensuring process recipes are followed in order to ensure manufacture of a safe product. Ensure that all safety data sheets are current and available for each chemical, and that employees have been trained to properly handle and store the chemicals. Maintain written chemical management policy.
 - 9.1.5. All process steps must be documented, including the chemicals used in order to ensure transparency in the manufacturing or processing procedure.
 - 9.1.6. Ensure that the products which you use to degrease, tan, dye, or retan the leather do not contain intentionally added or detectable levels of CrVI higher than the levels specified in the ZDHC MRSL and have low oxidation potential. Obtain from chemical supplier a statement confirming that chemicals are suitable for use and do not contribute to CrVI formation or have oxidative potential. If stored outside of supplier recommendations or past "use by" dates, use iodine-starch paper or ORP measurement to check oxidative potential and if necessary use reducing agent prior to use.
 - 9.1.7. Use of chemicals which contain intentionally added CrVI or which the manufacturer cannot guarantee as having detectable levels of CrVI no higher than the levels specified in the ZDHC MRSL is prohibited.
 - 9.1.8. Maintain detailed internal quality control records.
 - 9.1.9. Testing: Annually test representative samples of finished leather for CrVI. Refer to AFIRM Restricted Substances List (available at <https://afirm-group.com/wp->

content/uploads/2023/04/2023_AFIRM_RSL_2023_0419a.pdf) for recommended testing method.

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EXHIBIT D
Form of Notice to Suppliers

**EXHIBIT D
SUPPLIER NOTIFICATION
[FOR SETTLING DEFENDANTS THAT PURCHASE LEATHER FROM TANNERIES]:**

Dear [Supplier]:

As part of a settlement of a Proposition 65 enforcement action regarding hexavalent chromium in leather footwear/gloves, [Settling Defendant] is writing to notify you of certain requirements applicable to chrome-tanned leather used to manufacture leather components of footwear and gloves that come into direct contact with the skin of the average user when the footwear or gloves are worn.

Pursuant to the settlement, chrome-tanned leather used to manufacture direct skin contact components must be produced pursuant to the settlement Reformulation Protocol at a tannery that certifies that it will comply with the Reformulation Protocol, which is designed to minimize the presence and potential formation of hexavalent chromium in chrome-tanned leather.

We are required to obtain a certification from each tannery that directly supplies [Settling Defendant] with chrome-tanned leather at least once every five years. Please execute the attached certification and return it to us within 30 days, so that we can ensure compliance with the terms of the settlement. ***[For initial notifications before the final compliance date]:*** The settlement allows for a phase-in of leather from certified tanneries. If you cannot currently certify compliance with the Reformulation Protocol, please advise us immediately and provide a timeline for when you expect to obtain certification.

We are also required by the settlement to request that you retain certifications and records demonstrating compliance with the Reformulation Protocol for at least five years, and to produce them to us upon our written request.

[FOR SETTLING DEFENDANTS THAT PURCHASE FINISHED PRODUCTS]:

Dear [Supplier]:

As part of a settlement of a Proposition 65 enforcement action regarding hexavalent chromium in leather footwear/gloves, [Settling Defendant] is writing to notify you of certain requirements applicable to chrome-tanned leather used to manufacture leather components of footwear and gloves that come into direct contact with the skin of the average user when the footwear or gloves are worn.

Pursuant to the settlement, chrome-tanned leather used to manufacture direct skin contact components must be produced pursuant to the settlement Reformulation Protocol at a tannery that certifies that it will comply with the Reformulation Protocol, which is designed to minimize the presence and potential formation of hexavalent chromium in chrome-tanned leather.

We are requiring you to obtain a certification from each tannery that supplies you with chrome-tanned leather for use to manufacture direct skin contact components at least once every five years. Please have each tannery execute the attached certification and return it to you within 30 days, so that we can ensure compliance with the terms of the settlement. ***[For initial notifications before the final compliance date]:*** The settlement allows for a phase-in of leather from certified tanneries. If you cannot currently obtain certifications with compliance with the Reformulation Protocol from all tanneries that supply you with chrome-tanned leather, please advise us immediately and provide a timeline for when you expect to obtain certifications from all tanneries.

We are also required by the settlement to request that you retain certifications and records demonstrating your tanneries' compliance with the Reformulation Protocol for at least five years, and to produce them to us upon our written request.

Exhibit 2

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ALAMEDA

CENTER FOR ENVIRONMENTAL HEALTH,
a non-profit corporation,

Plaintiff,

v.

BALI LEATHERS, INC., *et al.*,

Defendants.

Lead Case No. RG 19-029736

[Consolidated with Case No. RG 19-034870]

[PROPOSED] AMENDED CONSENT JUDGMENT

Actions Filed: August 2, 2019 (RG 19-029736); September 12, 2019 (RG 19-034870)

1 This Amended Consent Judgment supersedes the original Consent Judgment entered in
2 these consolidated cases on [date], and is entered by the Court pursuant to the Order Approving
3 Opt-In Procedure and Future Amendment of Consent Judgment, filed and entered on [date]. This
4 Amended Consent Judgment reflects the addition of parties as Opt-In Settling Defendants.

5 **1. INTRODUCTION**

6 1.1 The Parties to this Amended Consent Judgment are the Center for Environmental
7 Health, a California non-profit corporation (“CEH”), and each of the Defendants listed on Exhibit
8 A (“Settling Defendants”). CEH and each Settling Defendant are referred to herein together as
9 the “Parties” or singly as a “Party.”

10 1.2 The Parties enter into this Amended Consent Judgment without a trial. Nothing in
11 this Amended Consent Judgment constitutes an admission by any Party regarding any issue of
12 law or fact. This Amended Consent Judgment sets forth the agreement and obligations of Settling
13 Defendants and CEH and, except as specifically provided below, it constitutes the complete, final,
14 and exclusive agreement among the Parties and supersedes any prior agreements among the
15 Parties.

16 **2. PROCEDURAL BACKGROUND, JURISDICTION, AND PURPOSE**

17 2.1 Commencing on April 15, 2019, CEH issued a series of 60-day Notices of
18 Violation under Health & Safety Code §25249.5 *et seq.* (“Proposition 65”) to each of the Settling
19 Defendants, the California Attorney General, the District Attorneys of every county in California,
20 and the City Attorneys of every California city with a population greater than 750,000, alleging
21 that Settling Defendants violated Proposition 65 by exposing persons to CrVI (defined in Section
22 3.4 below) from various types of gloves made with leather materials without first providing a
23 clear and reasonable Proposition 65 warning.

24 2.2 Commencing on July 2, 2019, CEH issued a series of 60-day Notices of Violation
25 under Proposition 65 to each of the Settling Defendants, the California Attorney General, the
26 District Attorneys of every county in California, and the City Attorneys of every California city
27 with a population greater than 750,000, alleging that Settling Defendants violated Proposition 65
28

1 by exposing persons to CrVI from footwear made with leather materials without first providing a
2 clear and reasonable Proposition 65 warning.

3 2.3 On August 2, 2019, CEH filed the original Complaint in the above-captioned *CEH*
4 *v. Bali* matter. On May 19, 2022, CEH filed the operative First Amended Complaint in the *CEH*
5 *v. Bali* matter (the “*Bali* Complaint”). On September 12, 2019, CEH filed the original Complaint
6 in the above-captioned *CEH v. Tommy Bahama* matter, which was subsequently amended. On
7 May 19, 2022, CEH filed the operative Third Amended Complaint in the *CEH v. Tommy Bahama*
8 matter (the “*Tommy Bahama* Complaint”). The *Bali* Complaint and the *Tommy Bahama*
9 Complaint are together referred to herein as the “Complaints.” The *CEH v. Bali* and *CEH v.*
10 *Tommy Bahama* consolidated matters are referred to herein as the “Actions.”

11 2.4 Each Settling Defendant is a business entity that is also a person in the course of
12 doing business as such term is defined under Proposition 65.

13 2.5 For purposes of this Amended Consent Judgment only, CEH and the Settling
14 Defendants stipulate that: (a) this Court has jurisdiction over the allegations of violations
15 contained in the Complaints; (b) this Court has personal jurisdiction over Settling Defendants as
16 to the acts alleged in those Complaints, (c) venue is proper in Alameda County; and (d) this Court
17 has jurisdiction to enter this Amended Consent Judgment as a full and final resolution of all
18 claims which were or could have been raised in the Complaints based on the facts alleged therein.

19 2.6 Settling Defendants and CEH agree not to challenge or object to entry of this
20 Amended Consent Judgment by the Court. The Parties agree not to challenge this Court’s
21 jurisdiction to enforce the terms of this Judgment once it has been entered, and agree that this
22 Court maintains jurisdiction over this Judgment for that purpose, unless the Amended Consent
23 Judgment is terminated.

24 2.7 By execution of this Amended Consent Judgment and agreeing to provide the
25 relief and remedies specified herein, Settling Defendants do not admit any violations of
26 Proposition 65 or any other law or legal duty. Each Settling Defendant expressly denies any
27 liability for any of the claims asserted and the facts alleged in the Complaints and the CEH
28 Notices of Violation. Nothing in this Amended Consent Judgment is intended to be an admission

1 of any issue of law or fact. This Amended Consent Judgment is the product of negotiation and
2 compromise and is accepted by the Parties solely for the purpose of settling, compromising, and
3 resolving issues disputed in the Actions.

4 **3. DEFINITIONS**

5 3.1 A “Certified Tannery” is a leather tannery that (a) is certified to produce Chrome-
6 Tanned Leather pursuant to the Reformulation Protocol and provides a certification substantially
7 in the form set forth on Exhibit B or (b) provides a certification demonstrating that the tannery
8 has achieved certification with overall Gold rating under the Leather Working Group (LWG)
9 Audit Protocol P7.2.2 (or any subsequent higher version that is in force at the time of
10 certification), or has attained a Gold medal rating in the section “Restricted Substances,
11 Compliance & Chromium VI Management” (or any subsequent section or sections regarding
12 CrVI management) (“LWG Certification”).

13 3.2 “Chrome-Tanned Leather” means leather, other than Exotic Leather, tanned with
14 chromium compounds.

15 3.3 “Covered Products” means:

16 3.3.1 Footwear for which normal and foreseeable use will result in one or more
17 Chrome-Tanned Leather components coming into direct contact with the skin of the average
18 user’s foot or leg while the footwear is worn (e.g., a Chrome-Tanned Leather insole, tongue, liner,
19 unlined upper, or strap);

20 3.3.2 Gloves for which normal and foreseeable use will result in one or more
21 Chrome-Tanned Leather components coming into direct contact with the skin of the average
22 user’s hand while the gloves are worn (e.g., an unlined glove, or one that is lined with Chrome-
23 Tanned Leather);

24 3.3.3 The definition of Covered Products as applied to each specific Settling
25 Defendant may be further modified as set forth on Exhibit A for that Settling Defendant (e.g., the
26 specific type or category of leather glove covered by the injunctive terms of this Amended
27 Consent Judgment for a particular Settling Defendant).

28

- 1 3.4 “CrVI” means chromium (hexavalent compounds), a chemical listed under
2 Proposition 65 as a known carcinogen and reproductive toxicant.
- 3 3.5 “Effective Date” means: (i) as to Initial Settling Defendants, [date]; or (ii) as to
4 Opt-In Settling Defendants, the date on which this Amended Consent Judgment is entered by the
5 Court.
- 6 3.6 “Exotic Leather” means leather that is made from hides of exotic animals such as
7 alligators, crocodiles, sharks, lizards, snakes, and ostriches.
- 8 3.7 “Final Compliance Date” means the earlier of the date twenty-four (24) months
9 after the Effective Date or December 31, 2025.
- 10 3.8 “Initial Compliance Date” means one (1) year after the Effective Date.
- 11 3.9 “Initial Settling Defendants” means the defendants that were party to the original
12 Consent Judgment entered in these consolidated cases on [date].
- 13 3.10 “Interim Compliance Date” means six (6) months prior to the Final Compliance
14 Date.
- 15 3.11 “Opt-In Settling Defendants” means the defendants that joined this Amended
16 Consent Judgment pursuant to procedure established in the Order Approving Opt-In Procedure
17 and Future Amendment of Consent Judgment, entered on [date].
- 18 3.12 “Reformulated Leather” means Chrome-Tanned Leather that was produced
19 pursuant to the Reformulation Protocol by a Certified Tannery.
- 20 3.13 “Reformulation Protocol” means the leather tanning protocol set forth on Exhibit
21 C.
- 22 3.14 “Settling Defendants” means the Initial Settling Defendants and the Opt-In
23 Settling Defendants.
- 24 3.15 “Skin Contact Component” means a Chrome-Tanned Leather component that
25 comes into direct contact with the skin of the average user’s hand or foot while the Covered
26 Product is being worn.

1 3.16 "Supplier" means an entity from which a Settling Defendant purchases or acquires
2 Covered Products or Chrome-Tanned Leather components used to manufacture Covered
3 Products.

4 **4. FACTUAL BACKGROUND**

5 4.1 Chromium exists in different valence states. One of those states is CrVI and
6 another is trivalent chromium, which is also known as CrIII. Neither elemental chromium nor
7 CrIII is a listed chemical under Proposition 65.

8 4.2 Chromium tanning is a process of preserving hides that uses CrIII compounds.
9 CrVI is not intentionally added to leather in the tanning process.

10 4.3 The valence state of chromium is unstable in nature. For example, CrIII will under
11 certain environmental conditions oxidize into CrVI. Likewise, CrVI will under certain
12 environmental conditions reduce into CrIII.

13 4.4 The process by which CrIII turns into CrVI is called oxidation. Certain chemicals
14 called antioxidants prevent or inhibit the oxidation process of chromium. Antioxidants can thus
15 prevent the formation of CrVI in or on the surface of the leather.

16 4.5 Environmental conditions that affect the oxidation and reduction of chromium
17 between CrIII and CrVI include temperature, humidity, and pH.

18 4.6 The Reformulation Protocol requires tanneries to take steps to minimize the
19 potential introduction of CrVI to leather during the tanning process for Chrome-Tanned Leather
20 and to use antioxidants that are baked into the hides during the tanning process. If a tannery
21 follows the Reformulation Protocol, the antioxidants will prevent or inhibit the oxidation process
22 such that there will not likely be detectable CrVI on the surface of the leather.

23 **5. INJUNCTIVE RELIEF**

24 5.1 Notice to Suppliers.

25 5.1.1 To the extent any Settling Defendant has not already done so, no more than
26 sixty (60) days after the Effective Date, each Settling Defendant shall provide notice to each of its
27 current Suppliers that all Chrome-Tanned Leather used to manufacture Skin Contact Components
28 of Covered Products manufactured, distributed, or sold by the Settling Defendant must be

1 **Reformulated Leather.** The notice shall request that (a) any Supplier of Chrome-Tanned Leather
2 that is a tannery used to manufacture Skin Contact Components provide to the Settling Defendant
3 either (i) a certification in the form of Exhibit B, or (ii) an LWG Certification; (b) any Supplier of
4 Chrome-Tanned Leather or finished product that is not a tannery obtain from its supplier(s) of
5 Chrome-Tanned Leather used to manufacture Skin Contact Components of Covered Products
6 either (i) a certification in the form of Exhibit B, or (ii) an LWG Certification; and (c) all
7 Suppliers retain certifications for Chrome-Tanned Leather for a period of at least five (5) years
8 and, to the extent not already provided, produce them upon written request of the Settling
9 Defendant.

10 5.1.2 Prior to or coincident with ordering any Skin Contact Components or
11 Covered Products from a new Supplier or a Supplier who has not received a notice from the
12 Settling Defendant under Section 5.1.1 within five (5) years of the date of such order, a Settling
13 Defendant shall provide a notice to such Supplier, consistent with Section 5.1.1.

14 5.1.3 Any written notice sent pursuant to this Section shall include the written
15 **Tannery Certification and Reformulation Protocol** set forth in Exhibits B and C. The written
16 notice attached hereto as **Exhibit D** is deemed to comply with the requirements of this Section.

17 **5.2 Reformulation.**

18 **5.2.1 Phased Compliance Timeline.**

19 5.2.1.1 After the **Initial Compliance Date**, each Settling Defendant shall
20 ensure that all of the Chrome-Tanned Leather used to manufacture Skin Contact Components of
21 at least fifty percent (50%) of Covered Products purchased or manufactured by Settling
22 Defendant that a Settling Defendant knows or has reason to believe may be sold or offered for
23 sale in California by Settling Defendant or any entity downstream of Settling Defendant is
24 Reformulated Leather.

25 5.2.1.2 After the **Interim Compliance Date**, each Settling Defendant
26 shall ensure that all of the Chrome-Tanned Leather used to manufacture Skin Contact
27 Components of at least seventy-five percent (75%) of Covered Products purchased or
28 manufactured by Settling Defendant that a Settling Defendant knows or has reason to believe may

1 be sold or offered for sale in California by Settling Defendant or any entity downstream of
2 Settling Defendant is Reformulated Leather.

3 5.2.1.3 After the Final Compliance Date, and subject to Section 5.3,
4 each Settling Defendant shall ensure that all of the Chrome-Tanned Leather used to manufacture
5 Skin Contact Components of Covered Products purchased or manufactured by Settling Defendant
6 that a Settling Defendant knows or has reason to believe may be sold or offered for sale in
7 California by Settling Defendant or any entity downstream of Settling Defendant is Reformulated
8 Leather.

9 5.2.1.4 A Settling Defendant's compliance with this Section 5.2.1 shall
10 be determined by the number of styles of Covered Products that contain only Skin Contact
11 Components supplied by a Certified Tannery divided by the total number of styles of Covered
12 Products. A Settling Defendant shall be entitled to rely on Supplier certifications to demonstrate
13 compliance with this Section 5.2.1.

14 5.2.2 If a Settling Defendant is unable to comply with the requirements of
15 Section 5.2.1 for either the Initial Compliance Date or the Interim Compliance Date, then within
16 thirty (30) days of such date, as applicable, it shall serve on CEH a report detailing the extent of
17 its compliance with such requirement, and the circumstances that prevented compliance with such
18 requirement.

19 5.3 Warnings. After the Final Compliance Date, a Settling Defendant may utilize
20 Skin Contact Components that were not supplied by a Certified Tannery, but only as set forth in
21 this Section. If a Settling Defendant makes a determination that it is not "feasible" to obtain Skin
22 Contact Components from a Certified Tannery, it may proceed under this Section for such
23 Covered Product.

24 5.3.1 The term "feasible" includes, but is not limited to, consideration of the
25 following factors:

26 5.3.1.1 the availability of Chrome-Tanned Leather from Certified
27 Tanneries;

28

1 5.3.1.2 the cost of Chrome-Tanned Leather and resulting increase in
2 manufacturers' prices resulting from the use of leather from Certified Tanneries, which factor
3 includes the geographic proximity of the factory producing the Covered Product and any Certified
4 Tannery that can produce the leather used in the Covered Product; and

5 5.3.1.3 the availability, cost, and performance and aesthetic
6 characteristics of non-Chrome-Tanned Leather that could substitute for Chrome-Tanned Leather
7 in Skin Contact Components of Covered Products;

8 5.3.2 No Settling Defendant may sell a Covered Product that such Settling
9 Defendant knows or has reason to believe may be sold or offered for sale in California by Settling
10 Defendant or any entity downstream of Settling Defendant for which it has made a determination
11 that is not "feasible" to obtain Skin Contact Components from a Certified Tannery unless such
12 Covered Product is labeled with a Clear and Reasonable Warning.

13 5.3.2.1 A Clear and Reasonable Warning under this Amended Consent
14 Judgment shall state:



15 **WARNING:** This product can expose you to chemicals including hexavalent
16 chromium, which is known to the State of California to cause cancer and birth
17 defects or other reproductive harm. For more information go to
18 www.P65Warnings.ca.gov.

19 The word "**WARNING**" shall be displayed in all capital letters and bold print and shall be
20 preceded by the yellow warning triangle symbol depicted above, provided however, the symbol
21 may be printed in black and white if the Covered Product label is produced without using the
22 color yellow. This warning statement shall be prominently displayed on the outer packaging or
23 tag of the Covered Product and shall be displayed with such conspicuousness, as compared with
24 other words, statements, or designs, as to render it likely to be seen, read, and understood by an
25 ordinary individual prior to sale. Where a sign or label used to provide a warning includes
26 consumer information about a product in a language other than English, the warning shall also be
27 provided in that language in addition to English.

1 5.3.2.2 For online and catalog sales, any Settling Defendant that
2 provides warnings pursuant to this Section shall (i) ensure that Clear and Reasonable Warnings
3 under Section 5.3.2 are provided for Covered Products that the Settling Defendant sells online to
4 consumers in California, and (ii) provide the warning language required in Section 5.3.2.1 to any
5 customers whom it knows or has reason to believe are offering the Settling Defendants' Covered
6 Products for which a warning is required for sale online to consumers in California. Settling
7 Defendants shall also revise any product catalogs printed after the Final Compliance Date to
8 include the warning language required in Section 5.3.2.1 for each Covered Product identified in
9 the catalog that requires a Clear and Reasonable Warning pursuant to this Section. For internet,
10 catalog, or any other sale where the consumer is not physically present, the warning statement
11 shall be displayed in such a manner that it is likely to be read and understood by an ordinary
12 individual prior to the authorization of or actual payment.

13 5.3.3 Any Settling Defendant that provides a warning pursuant to the feasibility
14 option of this Section shall provide a detailed written report to CEH within forty-five (45) days of
15 the end of each calendar year regarding the use of the feasibility warnings, the units covered, and
16 the specific factual basis for the feasibility finding. This reporting obligation shall terminate five
17 (5) years after the Effective Date.

18 5.3.4 No Settling Defendant may make use of the feasibility warnings set forth in
19 this Section on more than the Allowed Warning Percentage of the styles of Covered Products
20 shipped to California or to customers which the Settling Defendant knows or has reason to
21 believe will offer for sale to customers in California in any particular year. The "Allowed
22 Warning Percentage" shall be thirty-three percent (33%) in the first and second years after the
23 Final Compliance Date, seventeen percent (17%) in the third year after the Final Compliance
24 Date, and five percent (5%) thereafter.

25 5.4 **Document Retention Requirements.** All certifications, Supplier notifications,
26 feasibility documents, and other documents referenced in this Section 5 shall be retained by each
27 Settling Defendant for four (4) years from the date of creation and made available to CEH upon
28

1 written request not more than once per calendar year, commencing on the Final Compliance Date
2 until the seventh (7th) anniversary of the Effective Date.

3 **6. ENFORCEMENT**

4 **6.1 Enforcement Procedures.** Any Party or any of the public entities identified in
5 Health & Safety Code section 25249.7(c) (collectively, "Enforcers") may, by motion or
6 application for an order to show cause before this Court, seek to enforce the terms of this Consent
7 Judgment. Prior to filing any such motion or application, the Enforcer(s) shall provide the
8 allegedly violating Party with a written notice setting forth the detailed factual and legal basis for
9 the alleged violation along with any evidentiary support for the alleged violation ("Notice of
10 Violation"). The Enforcer(s) and the allegedly violating Party shall then meet and confer during
11 the thirty (30) day period following the date the Notice of Violation was sent in an effort to try to
12 reach agreement on an appropriate cure, penalty, or related attorneys' fees related to the alleged
13 violation. After such thirty (30) day period, the Enforcer(s) may, by motion or application for an
14 order to show cause before the Superior Court of Alameda, seek to enforce the terms and
15 conditions contained in this Consent Judgment. Nothing in this Section 6.1 shall impact the
16 Court's authority in an enforcement proceeding to impose appropriate remedies, including the
17 provision of a clear and reasonable warning.

18 **6.2 Notice of Violation Regarding Failure to Comply with Section 5.2.**

19 **6.2.1** If an Enforcer serves a Notice of Violation that alleges a violation of the
20 reformulation requirements set forth in Section 5.2, it shall identify the Covered Product and the
21 Skin Contact Components that the Enforcer contends were not produced by a Certified Tannery
22 pursuant to the Reformulation Protocol, along with the evidentiary support for such claim.

23 **6.2.2** A Settling Defendant shall serve its response to a Notice of Violation
24 served under Section 6.2.1 within thirty (30) days of receipt of the Notice, unless extended by
25 agreement. The response shall include any certification and documentation sufficient to
26 demonstrate that the Skin Contact Components of the Covered Product that were the subject of
27 the Notice of Violation were produced by a Certified Tannery.

28

1 6.2.2.1 If the Settling Defendant's response demonstrates that: (a) the
2 Skin Contact Components identified in the Notice were produced by a tannery that was a
3 Certified Tannery at the time of production; or (b) the Notice of Violation identifies the same
4 Covered Product or Covered Products differing only in size that have been the subject of another
5 Notice of Violation within the preceding twelve (12) months, the Enforcer shall take no further
6 action. If the Enforcer contends that the Settling Defendant's response does not satisfy the
7 provisions of this Section, the Enforcer shall within thirty (30) days of receipt of Defendant's
8 response notify the Settling Defendant of the basis for its contention, the Notice shall be deemed
9 contested, and the Parties shall proceed under Section 6.2.4.

10 6.2.2.2 If the Settling Defendant does not serve a response within thirty
11 (30) days of receipt of the Notice, it shall be deemed to contest the Notice and the Parties shall
12 proceed under Section 6.2.4.

13 6.2.3 If the Settling Defendant elects not to contest a Notice of Violation served
14 under Section 6.2.1, the Settling Defendant shall do the following:

15 6.2.3.1 For the first Notice of Violation served on a particular Settling
16 Defendant, within fourteen (14) days after serving its response to the Notice of Violation, the
17 Settling Defendant shall take corrective action consisting of: (a) providing the Enforcer with
18 documentation sufficient to determine the certification status of Covered Products sold for the
19 two (2) years prior to the date of the Notice of Violation; and (b) pay the Enforcer \$5,000 as
20 reimbursement of fees, costs, and expenses involved in investigating and producing the Notice of
21 Violation and reviewing and monitoring compliance by such Settling Defendant in the future.

22 6.2.3.2 For Notices of Violation served on a particular Settling
23 Defendant after the first uncontested Notice of Violation, within ninety (90) days after serving its
24 response to the Notice of Violation, the Settling Defendant shall either:

25 (a) withdraw the Covered Product from sale in California and
26 direct customers to withdraw the Covered Product from sale in California; or

27
28

1 (b) provide a clear and reasonable warning pursuant to Section
2 5.3.2 for Covered Products sold by the Settling Defendant in California and instruct any
3 customers to provide such warning.

4 No later than fourteen (14) days after serving its response to the Notice of Violation, the Settling
5 Defendant shall pay the Enforcer \$10,000 as reimbursement of fees, costs, and expenses involved
6 in investigating and producing the Notice of Violation and reviewing and monitoring compliance
7 by such Settling Defendant in the future.

8 6.2.4 If any dispute arises relating to the sufficiency of any information provided
9 by an Enforcer or a Settling Defendant pursuant to this Section 6.2, or if the Settling Defendant
10 elects to contest a Notice of Violation, the Parties shall meet and confer as required by Section 6.1
11 before filing any motion, application, or request for an order with the court. A Settling Defendant
12 may at any time during the meet and confer process and prior to the Enforcer filing any motion,
13 application, or request for an order with the court, notify the Enforcer that the Settling Defendant
14 no longer contests the Notice and that the Settling Defendant elects to proceed pursuant to Section
15 6.2.3.

16 7. PAYMENTS

17 7.1 **Payments by Initial Settling Defendants.** On or before ten (10) business days
18 after notice of the entry of the original Consent Judgment and receipt of Forms W-9 for all
19 payees, each Initial Settling Defendant shall pay the total sum set forth on Exhibit A for that
20 Initial Settling Defendant as a settlement payment as further set forth in this Section.

21 7.2 **Payments by Opt-In Settling Defendants.** Within ninety (90) days after notice
22 of the entry of the original Consent Judgment, each Opt-In Settling Defendant shall pay the total
23 sum set forth on Exhibit A for that Opt-In Settling Defendant as a settlement payment as further
24 set forth in this Section.

25 7.3 **Allocation of Payments.** For Initial Settling Defendants, the total settlement
26 amount shall be paid in five (5) separate checks in the amounts specified for each Initial Settling
27 Defendant on Exhibit A and delivered as set forth below. Any failure by an Initial Settling
28 Defendant to comply with the payment terms herein shall be subject to a stipulated late fee to be

1 P.O. Box 4010, MS #19B
2 Sacramento, CA 95812-4010

3 For Non-United States Postal Service Delivery:
4 Attn: Mike Gyurics
5 Fiscal Operations Branch Chief
6 Office of Environmental Health Hazard Assessment
7 1001 I Street, MS #19B
8 Sacramento, CA 95814

9 Each Initial Settling Defendant shall pay the CEH portion of the civil penalty payment set forth in
10 Exhibit A for that Initial Settling Defendant by check made payable to the Center for
11 Environmental Health and associated with taxpayer identification number 94-3251981. This
12 payment shall be delivered to Lexington Law Group, 503 Divisadero Street, San Francisco, CA
13 94117.

14 7.4.2 For each Opt-In Settling Defendant, the single settlement payment shall be
15 apportioned as set forth in Exhibit A for that Opt-In Settling Defendant and the civil penalty
16 portion shall be delivered by Counsel for CEH to OEHHA and CEH.

17 7.5 Each Settling Defendant shall pay the amount set forth in Exhibit A for that
18 Settling Defendant as an ASP to CEH pursuant to Health & Safety Code §25249.7(b), and
19 California Code of Regulations, Title 11, §3204. CEH will use these funds to support CEH
20 programs and activities that seek to educate the public about toxic chemicals, including hormone
21 disruptors such as hexavalent chromium, work with industries interested in moving toward safer
22 alternatives, advocate with government, businesses, and communities for business practices that
23 are safe for human health and the environment, and thereby reduce the public health impacts and
24 risks of exposure to hexavalent chromium and other toxic chemicals in consumer products sold in
25 California. CEH shall obtain and maintain adequate records to document that ASPs are spent on
26 these activities and CEH agrees to provide such documentation to the Attorney General within
27 thirty (30) days of any request from the Attorney General.

28 7.5.1 For each Initial Settling Defendant, the payments pursuant to this Section
shall be made payable to the Center for Environmental Health and associated with taxpayer

1 identification number 94-3251981. These payments shall be delivered to Lexington Law Group,
2 503 Divisadero Street, San Francisco, CA 94117.

3 7.5.2 For each Opt-In Settling Defendant, the single settlement payment shall be
4 apportioned as set forth in Exhibit A for that Opt-In Settling Defendant and the ASP portion shall
5 be delivered by Counsel for CEH to CEH.

6 7.6 Each Settling Defendant shall pay the amount set forth in Exhibit A for that
7 Settling Defendant as a reimbursement of a portion of CEH's reasonable attorneys' fees and costs
8 (including but not limited to expert and investigative costs).

9 7.6.1 For each Initial Settling Defendant, the attorneys' fees and cost
10 reimbursement shall be made in two separate checks in the amounts set forth on Exhibit A for that
11 Settling Defendant as follows: (a) a check payable to the Lexington Law Group, LLP and
12 associated with taxpayer identification number 88-4399775; and (b) a check payable to the Center
13 for Environmental Health and associated with taxpayer identification number 94-3251981. Both
14 of these payments shall be delivered to Lexington Law Group, 503 Divisadero Street, San
15 Francisco, CA 94117.

16 7.6.2 For each Opt-In Settling Defendant, the single settlement payment shall be
17 apportioned as set forth in Exhibit A for that Opt-In Settling Defendant and the CEH attorneys'
18 fees and cost reimbursement portion shall be delivered by Counsel for CEH to CEH.

19 7.7 For any Opt-In Settling Defendant that owes an initial appearance fee in an Action,
20 the single settlement payment shall be apportioned as set forth in Exhibit A for that Opt-In
21 Settling Defendant and the appearance fee portion shall be delivered by Counsel for CEH to the
22 Court.

23 **8. MODIFICATION OF CONSENT JUDGMENT AND TERMINATION OF**
24 **INJUNCTIVE RELIEF**

25 8.1 **Modification.** This Amended Consent Judgment may be modified from time to
26 time by express written agreement of the Parties to which any such modification would apply,
27 with the approval of the Court, or by an order of this Court upon motion and in accordance with
28 law.

1 **8.2 Force Majeure.** The inability of a Settling Defendant to comply with any
2 deadline set forth in this Amended Consent Judgment due to an act of terrorism, fire, earthquake,
3 civil disorders, war, or act of God that is beyond the reasonable control of such Settling
4 Defendant shall be grounds to move for modification of the deadlines set forth in this Amended
5 Consent Judgment.

6 **8.3 Most Favored Nations Provision.** If, after the Effective Date, a court enters
7 judgment in the Actions or another Proposition 65 enforcement action brought by CEH over
8 exposure to CrVI in Covered Products that imposes different injunctive relief from that set forth
9 in this Amended Consent Judgment, a Settling Defendant may seek to modify Section 5 of this
10 Amended Consent Judgment to conform with the injunctive relief provided in such later
11 judgment.

12 **8.4 Termination of Injunctive Relief.**

13 **8.4.1** If, after the Effective Date, a court enters judgment in the Actions or
14 another Proposition 65 enforcement action brought by CEH over exposure to CrVI in leather
15 gloves or footwear that denies a request for injunctive relief on the grounds that (a) CEH has not
16 shown an exposure to CrVI from Chrome-Tanned Leather, or (b) the defendant has demonstrated
17 that any exposure to CrVI from Chrome-Tanned Leather is exempt from the Proposition 65
18 warning requirement under Health & Safety Code §25249.10(c), a Settling Defendant may seek
19 to terminate the injunctive relief in Section 5 of this Amended Consent Judgment as to that
20 Settling Defendant.

21 **8.4.2** Commencing on the fifth (5th) anniversary of the Effective Date and upon
22 the provision of thirty (30) days advanced written notice to CEH and the Court, a Settling
23 Defendant may terminate the injunctive relief in Section 5 of this Amended Consent Judgment as
24 to that Settling Defendant. Upon any such termination, the provisions of Section 9.3 shall no
25 longer apply to such Settling Defendant.

26 **8.5 Notice; Meet and Confer.** Any Party seeking to modify this Amended Consent
27 Judgment or terminate it pursuant to Section 8.4.1 shall attempt in good faith to meet and confer
28 with all affected Parties prior to filing a motion to modify the Amended Consent Judgment.

1 **9. CLAIMS COVERED AND RELEASE**

2 9.1 The Parties enter into this Amended Consent Judgment as a full and final
3 settlement of all claims arising under Proposition 65 relating to alleged exposure to CrVI from
4 footwear and/or gloves made with Chrome-Tanned Leather components as further specified on
5 Exhibit A for each Settling Defendant (“Released Products”), and as to all claims pursuant to
6 Health and Safety Code §25249.7(d) that were raised or could have been raised in the CEH 60-
7 Day Notices or Complaints, arising from the failure to warn under Proposition 65 regarding the
8 presence of CrVI in such Released Products. Provided that a Settling Defendant has complied
9 with Section 7 hereof, this Amended Consent Judgment is a full, final, and binding resolution
10 between CEH on behalf of itself and the public interest and such Settling Defendant and its
11 parents, subsidiaries, affiliated entities that are under common ownership, directors, officers,
12 employees, agents, shareholders, successors, assigns, and attorneys (“Defendant Releasees”), and
13 all entities to which such Settling Defendant directly or indirectly distributes or sells Released
14 Products, including but not limited to its distributors, wholesalers, customers, retailers,
15 franchisees, licensors, and licensees (“Downstream Defendant Releasees”), of any violation of
16 Proposition 65 based on failure to warn about alleged exposure to CrVI contained in Released
17 Products that were manufactured, distributed, sold, or offered for sale by a Settling Defendant
18 prior to the Final Compliance Date.

19 9.2 Provided that a Settling Defendant has complied with Section 7 hereof, CEH, for
20 itself and its agents, successors, and assigns, releases, waives, and forever discharges any and all
21 claims against such Settling Defendant, its Defendant Releasees, and its Downstream Defendant
22 Releasees arising from any violation of Proposition 65 or any other statutory or common law
23 claims that have been or could have been asserted by CEH regarding the failure to warn about
24 exposure to CrVI arising in connection with Released Products manufactured, distributed, sold, or
25 offered for sale by such Settling Defendant prior to the Final Compliance Date.

26 9.3 Provided that a Settling Defendant has complied with Section 7 hereof,
27 compliance with the terms of this Amended Consent Judgment by such Settling Defendant shall
28 constitute compliance with Proposition 65 by such Settling Defendant, its Defendant Releasees,

1 and its Downstream Defendant Releasees with respect to any alleged failure to warn about CrVI
2 in Released Products manufactured, distributed, sold, or offered for sale by such Settling
3 Defendant after the Final Compliance Date, except as to any retailer who fails to provide warning
4 provided to said retailer pursuant to this Amended Consent Judgment in a manner consistent with
5 the requirements of this Amended Consent Judgment.

6 **10. PROVISION OF NOTICE**

7 10.1 When CEH is entitled to receive any notice under this Amended Consent
8 Judgment, the notice shall be sent by first class or electronic mail to:

9 Joseph Mann
10 Lexington Law Group, LLP
11 503 Divisadero Street
12 San Francisco, CA 94117
jmann@lexlawgroup.com

13 10.2 When a Settling Defendant is entitled to receive any notice under this Amended
14 Consent Judgment, the notice shall be sent by first class or electronic mail to the address listed on
15 Exhibit A for such Settling Defendant.

16 10.3 Any Party may modify the person and address to whom the notice is to be sent by
17 sending the other Party notice by first class or electronic mail.

18 **11. COURT APPROVAL**

19 11.1 This Amended Consent Judgment shall become effective when approved by the
20 Court. If this Amended Consent Judgment is not entered by the Court, it shall be of no further
21 force or effect and shall not be introduced into evidence or otherwise used in any proceeding for
22 any purpose.

23 **12. GOVERNING LAW AND CONSTRUCTION**

24 12.1 The terms of this Amended Consent Judgment shall be governed by the laws of the
25 State of California.

26 **13. ATTORNEYS' FEES**

27 13.1 Should CEH prevail on any motion, application for an order to show cause, or
28 other proceeding related to this Amended Consent Judgment, CEH shall be entitled to its

1 reasonable attorneys' fees and costs incurred as a result of such motion or application from the
2 Settling Defendant(s) subject to or opposing said motion, application, or other proceeding.
3 Should a Settling Defendant prevail on any motion, application for an order to show cause, or
4 other proceeding related to this Amended Consent Judgment, the Settling Defendant may be
5 awarded its reasonable attorneys' fees and costs as a result of such motion, application, or other
6 proceeding upon a finding by the Court that CEH's prosecution of the motion, application, or
7 other proceeding lacked substantial justification.

8 13.2 Nothing in this Section 13 shall preclude a Party from seeking an award of
9 sanctions pursuant to law.

10 **14. ENTIRE AGREEMENT**

11 14.1 This Amended Consent Judgment contains the sole and entire agreement and
12 understanding of the Parties with respect to the entire subject matter hereof, and any and all prior
13 discussions, negotiations, commitments, or understandings related thereto, if any, are hereby
14 merged herein and therein. There are no warranties, representations, or other agreements between
15 the Parties except as expressly set forth herein. No representations, oral or otherwise, express or
16 implied, other than those specifically referred to in this Amended Consent Judgment have been
17 made by any Party hereto. No other agreements not specifically contained or referenced herein,
18 oral or otherwise, shall be deemed to exist or to bind any of the Parties hereto. Any agreements
19 specifically contained or referenced herein, oral or otherwise, shall be deemed to exist or to bind
20 any of the Parties hereto only to the extent that they are expressly incorporated herein. No waiver
21 of any of the provisions of this Amended Consent Judgment shall be deemed or shall constitute a
22 waiver of any of the other provisions hereof whether or not similar, nor shall such waiver
23 constitute a continuing waiver.

24 **15. RETENTION OF JURISDICTION**

25 15.1 This Court shall retain jurisdiction of this matter to implement or modify the
26 Amended Consent Judgment.
27
28

1 **16. SUCCESSORS AND ASSIGNS**

2 16.1 This Amended Consent Judgment shall apply to and be binding upon CEH and
3 each Settling Defendant, and their respective divisions, subdivisions, and subsidiaries, and the
4 successors or assigns of any of them.

5 **17. AUTHORITY TO STIPULATE TO CONSENT JUDGMENT**

6 17.1 Each signatory to this Amended Consent Judgment certifies that he or she is fully
7 authorized by the Party he or she represents to stipulate to this Amended Consent Judgment and
8 to enter into and execute the Amended Consent Judgment on behalf of the Party represented and
9 to legally bind that Party.

10 **18. EFFECT ON OTHER SETTLEMENTS**

11 18.1 Nothing in this Amended Consent Judgment shall preclude CEH from resolving
12 any claim against an entity that is not a Settling Defendant on terms that are different from those
13 contained in this Amended Consent Judgment.

14 18.2 The entry and approval of this Amended Consent Judgment shall be deemed a
15 "Reformulation Event" as such term is used in previous Consent Judgments entered by this Court
16 in these Actions.

17 **19. EXECUTION IN COUNTERPARTS**

18 19.1 The stipulations to this Amended Consent Judgment may be executed in
19 counterparts and by means of portable document format (pdf), which taken together shall be
20 deemed to constitute one document.

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IT IS SO ORDERED:

Dated: _____

Judge of the Superior Court of California

IT IS SO STIPULATED:

Dated: _____

**CENTER FOR ENVIRONMENTAL
HEALTH**

Signature

Printed Name

Title

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Dated: _____

**[PAGE FOR EACH SETTLING
DEFENDANT]**

Signature

Printed Name

Title

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EXHIBIT A

Individual Settling Defendant Information

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Settling Defendant: Settling Defendant Name

Contact Information: Counsel Contact Information
Firm
Address
City State
Email

Payment Amounts:

Payment total: \$xxxxxx
Allocation of Total Payment:

Payee	Type	Amount	Deliver To
OEHHA	Penalty	\$	OEHHA per Section 4.2.1
Center For Environmental Health	Penalty	\$	LLG
Center For Environmental Health	ASP	\$	LLG
Center For Environmental Health	Fees	\$	LLG
Lexington Law Group	Fees and Costs	\$	LLG

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EXHIBIT B
Tannery Certification

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EXHIBIT C
Reformulation Protocols

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EXHIBIT D
Form of Notice to Suppliers

Exhibit 3

**NOTICE OF INTENT TO OPT IN TO
PROPOSITION 65 CONSENT JUDGMENT**

Eric S. Somers
Joseph Mann
Meredyth L. Merrow
Lexington Law Group LLP
503 Divisadero Street
San Francisco, CA 94117

Please take notice that the undersigned company desires to become an Opt-In Settling Defendant pursuant to the Order Approving Opt-In Procedure and Future Amendment of Consent Judgment entered by the Court on [date] in *Center for Environmental Health v. Bali Leathers, Inc., et al.*, Lead Case No. RG19029736 (consolidated with *Center for Environmental Health v. Tommy Bahama Group, Inc., et al.*, Case No. RG19034870). A copy of the Opt-In Order, the original Consent Judgment, and the proposed Amended Consent Judgment may be found at www.prop65hexchromesettlement.com. The undersigned company understands that, in order to participate in the settlement, it must return:

- (1) this signed Notice of Intent form;
- (2) the attached Exhibit 1, fully completed with all the information requested;
- (3) the signed signature page attached as Exhibit 2, which will be inserted into the Amended Consent Judgment; and
- (4) the payment required under Section 7 and Exhibit A of the Amended Consent Judgment, as explained in the "Payment" section of the attached Exhibit 1.

If our company has **not** already been named as a defendant in the pending *Tommy Bahama* or *Bali Leathers* actions, we understand that we must additionally submit:

- (5) the signed stipulation to consent to the general jurisdiction of the Court attached as Exhibit 3, which will be submitted to the Court; and
- (6) an additional payment of \$435 per case to cover the requisite Court-imposed fee for making a formal appearance.

The undersigned company understands that all of these documents and the required payment must be received by counsel for CEH at the address listed above **on or before [date]**.

Furthermore, to the extent it has **not** already been served with a Notice of Violation from the Center for Environmental Health ("CEH") alleging exposures to chromium (hexavalent

compounds) ("CrVI") in each type of product to be included as a Covered Product under the Amended Consent Judgment, the undersigned company understands that it must immediately contact CEH's counsel – the Lexington Law Group LLP – at leather@lexlawgroup.com to discuss the service of such a Notice of Violation and what supporting factual information the company will need to provide. Such evidence could be, but is not required to be, analytical testing results indicating the presence of detectable levels of CrVI on the surface of the undersigned company's Covered Products.

If our company has **not** already been named as a defendant in any pending CEH action alleging Proposition 65 violations as to CrVI in Covered Products, or has been named but seeks to add a new type of Covered Product, we understand that the complaint in one or both of CEH's pending actions will be amended to add our company as a defendant after receipt of the attached settlement documents and after expiration of any 60-day notice period (provided that no public enforcer has commenced and is diligently prosecuting an action regarding the violation).

I HAVE READ AND UNDERSTOOD THE AMENDED CONSENT JUDGMENT AND THIS NOTICE AND AM AUTHORIZED TO EXECUTE THIS DOCUMENT ON BEHALF OF THE COMPANY LISTED BELOW.

Company Name

Signature

Printed Name

Title

Please fill out the attached forms completely. Failure to do so could lead to your company being excluded from the Amended Consent Judgment. The information on the attached form (Exhibit 1) will be added to Exhibit A of the Amended Consent Judgment, along with the attached signature page (Exhibit 2), and a final, fully executed copy will be circulated. If your company is not presently a party to the *Tommy Bahama* action or the *Bali Leathers* action, the executed Stipulation to Consent to General Jurisdiction (Exhibit 3) will be submitted to the Court by CEH such that judgment may properly be entered in the *Tommy Bahama* action or the *Bali Leathers* action (or both). The attached, completed forms and required payment must be received by [date].

Exhibit 1
Settling Defendants, Covered Products, and Notice Recipients

Opt-In Settling Defendant

Type or print exact corporate name of Opt-In Settling Defendant.

Covered Products

Pursuant to Section 3.3 and Exhibit A, the Amended Consent Judgment will include the following as “Covered Products” (choose the type or types of Covered Products to which the Amended Consent Judgment will apply – note the associated payments below):

_____ Footwear for which normal and foreseeable use will result in one or more Chrome-Tanned Leather components coming into direct contact with the skin of the average user’s foot or leg while the footwear is worn (e.g., a Chrome-Tanned Leather insole, tongue, liner, unlined upper, or strap)

_____ Gloves for which normal and foreseeable use will result in one or more Chrome-Tanned Leather components coming into direct contact with the skin of the average user’s hand while the gloves are worn (e.g., an unlined glove, or one that is lined with Chrome-Tanned Leather)

“Chrome-Tanned Leather” means leather tanned with chromium compounds, other than leather that is made from hides of exotic animals such as alligators, crocodiles, sharks, lizards, snakes, and ostriches.

The type(s) of “Covered Products” selected above will determine the pending action(s) to which the Opt-In Settling Defendant will be added as a party, if it is not already a party. Footwear claims will be resolved in the action captioned as *Center for Environmental Health v. Tommy Bahama Group, Inc., et al.*, Alameda Superior Court Case No. RG19034870. Gloves claims will be resolved in the action captioned as *Center for Environmental Health v. Bali Leathers, Inc., et al.*, Alameda Superior Court Case No. RG19029736. If both Footwear and Gloves are selected above, the Opt-In Settling Defendant will be added as a party to both actions.

Payment

As set forth in the chart below, the payment required varies depending on (a) the number of type of Covered Products selected above (e.g., Footwear, Gloves, or both), (b) the number of units of Covered Products (i.e., a pair of gloves or footwear) of any selected type that the Opt-In Settling Defendant knows or has reason to believe were ultimately offered for sale or sold to California consumers, and (c) whether the Opt-In Settling Defendant must pay an initial appearance fee:

Tier	Unit Sales	Payment			
		1 Product Type	1 Product Type, Plus Appearance Fee	2 Product Types	2 Product Types, Plus Appearance Fees
1	More than 99,999	\$85,000	\$85,435	\$100,000	\$100,870
2	50,000 - 99,999	\$80,000	\$80,435	\$95,000	\$95,870
3	10,000 - 49,999	\$75,000	\$75,435	\$90,000	\$90,870
4	500 - 9,999	\$65,000	\$65,435	\$80,000	\$80,870
5	Fewer than 500	\$45,000	\$45,435	\$60,000	\$60,870

The "Unit Sales" amount is determined by (1) if available, the Settling Defendant's California unit sales of Covered Products from July 1, 2022 to June 30, 2023; or (2) if not, the Settling Defendant's California unit sales of Covered Products during the entire 2022 calendar year.

For entities that are not already parties to the pending *Tommy Bahama* (Footwear) or *Bali Leathers* (Gloves) actions, an additional payment is required to cover a Court-imposed appearance fee of \$435 per case to which the Opt-In Settling Defendant will be added. Thus, if both Footwear and Gloves are selected above, the Opt-In Settling Defendant must pay a total of \$870 to cover the requisite appearance fee.

Name and Contact Information of Person to Receive Notice: Pursuant to Section 10.2 and Exhibit A of the Amended Consent Judgment, the following persons should receive any notices to Settling Defendant required under the Amended Consent Judgment:

Name

Address

Email address

[Optional Second Contact]

Name

Address

Email address

Exhibit 2

Signature Page for Amended Consent Judgment [see next page]

<p>Dated: _____</p>	<p>_____</p> <p>Defendant Name</p> <p>_____</p> <p>Signature</p> <p>_____</p> <p>Printed Name</p> <p>_____</p> <p>Title</p>
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Exhibit 3

Stipulation to Consent to General Jurisdiction [see next page]

[Note: This stipulation is required only for entities that are not already parties to the pending actions captioned as *Center for Environmental Health v. Tommy Bahama Group, Inc., et al.*, Alameda Superior Court Case No. RG19034870 or *Center for Environmental Health v. Bali Leathers, Inc., et al.*, Alameda Superior Court Case No. RG19029736.]

The undersigned hereby makes a general appearance and consents to the general jurisdiction of the Court in the action(s) captioned as:

_____ *Center for Environmental Health v. Tommy Bahama Group, Inc., et al.*, Alameda Superior Court Case No. RG19034870 (Footwear)

_____ *Center for Environmental Health v. Bali Leathers, Inc., et al.*, Alameda Superior Court Case No. RG19029736 (Gloves)

Dated: _____	_____
	Defendant Name

	Signature

	Printed Name

	Title

Exhibit 3

1 LEXINGTON LAW GROUP LLP
Eric S. Somers, State Bar No. 139050
2 Joseph Mann, State Bar No. 207968
3 Meredyth L. Merrow, State Bar No. 328337
503 Divisadero Street
4 San Francisco, CA 94117
Telephone: (415) 913-7800
5 Facsimile: (415) 759-4112
esomers@lexlawgroup.com
6 jmann@lexlawgroup.com
mmerrow@lexlawgroup.com
7

8 Attorneys for Plaintiff
CENTER FOR ENVIRONMENTAL HEALTH
9

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 COUNTY OF ALAMEDA

13 CENTER FOR ENVIRONMENTAL HEALTH,
14 a non-profit corporation,

15 Plaintiff,

16 v.

17 BALI LEATHERS, INC., *et al.*,

18 Defendants.
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FILED
ALAMEDA COUNTY

FEB 21 2024

CLERK OF THE SUPERIOR COURT
By *Michael Hall*

Lead Case No. RG 19-029736

[Consolidated with Case No. RG 19-034870]

ASSIGNED FOR ALL PURPOSES TO:
The Hon. Noel Wise, Dept. 21

~~PROPOSED~~ ORDER APPROVING
OPT-IN PROCEDURE AND
FUTURE AMENDMENT OF
CONSENT JUDGMENT

Actions Filed: August 2, 2019 (RG 19-029736); September 12, 2019 (RG 19-034870)

Trial Date: None set

1 Pursuant to the Stipulation for Opt-In Procedure and Future Amendment of Consent
2 Judgment among Plaintiff Center for Environmental Health (“CEH”) and the defendants
3 identified on Exhibit A of the Consent Judgment attached hereto as Exhibit 1 (“Initial Settling
4 Defendants”), and good cause appearing therefore,

5 IT IS HEREBY ORDERED as follows:

6 1. An entity is eligible to become an Opt-In Settling Defendant under the terms of the
7 proposed Amended Consent Judgment attached hereto as Exhibit 2 if it (a) is a “person in the
8 course of doing business” as that term is defined in California Health and Safety Code
9 §25249.11(b); and (b) manufactures or purchases one or more Covered Products (as defined in
10 Section 3.3 of the Amended Consent Judgment) that the entity knows or has reason to believe
11 may be sold or offered for sale in the State of California, or has done so in the past.

12 2. No later than 90 days after Notice of Entry of the Consent Judgment, an entity that
13 wishes to become an Opt-In Settling Defendant shall provide to CEH’s Counsel, with a copy to
14 Defense Liaison Counsel, each of the following:

- 15 (a) its Notice of Intent to Opt In to Consent Judgment (“Notice of Intent”) in
16 the form attached hereto as Exhibit 3;
- 17 (b) all payments required by Section 7 and Exhibit A of the Amended Consent
18 Judgment;
- 19 (c) an executed signature page to the Amended Consent Judgment; and
- 20 (d) for any Opt-In Settling Defendant that is not already named as a defendant
21 in one of the consolidated actions, a signed stipulation to consent to the
22 general jurisdiction of the Court.

23 CEH shall have the right to reject any Notice of Intent based on the identification or grouping of
24 entities identified as Opt-In Settling Defendants or the sufficiency of the information provided, in
25 which case CEH shall promptly return any funds received with such Notice of Intent.

26 3. Within 120 days after Notice of Entry of the Consent Judgment, to the extent it has
27 not already done so, CEH shall serve a 60-Day Notice of Violation of Proposition 65 pursuant to
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1 California Health and Safety Code §25249.7(d)(1) relating to chromium (hexavalent compounds)
2 (“CrVI”) in designated Covered Products upon each entity that has properly notified CEH of its
3 intent to opt into the Consent Judgment and provided sufficient factual information to support the
4 Notice of Violation.

5 4. Within 135 days of Notice of Entry of the Consent Judgment, and assuming it has
6 received at least one notice of intent to opt in, CEH shall file a noticed motion for approval of a
7 proposed Amended Consent Judgment in the form attached hereto as Exhibit 2. The Amended
8 Consent Judgment filed with the Court may only differ from the attached Exhibit 2 in that it will
9 (a) attach the Opt-In Settling Defendants’ signature pages; (b) allocate the Opt-In Settling
10 Defendants’ payments in Exhibit A depending on the number of Opt-In Settling Defendants,
11 CEH’s unrecovered attorneys’ fees and costs, each Opt-In Settling Defendant’s California unit
12 sales of Covered Products, and whether that Opt-In Settling Defendant owes an initial appearance
13 fee to the Court; (c) add the type of Covered Products and the other information required for each
14 Opt-In Settling Defendant to Exhibit A; and (d) include any other changes that are necessary to
15 effectuate the intent of the parties. CEH may use the Initial Settling Defendants’ signatures on
16 the Consent Judgment as their signatures on the Amended Consent Judgment.

17 5. The motion for approval of the Amended Consent Judgment shall be set for
18 hearing at least 60 days after CEH serves the last 60-Day Notice of Violation of Proposition 65
19 regarding CrVI in Covered Products on the Opt-In Settling Defendants.

20 6. CEH is hereby granted leave to amend the applicable operative complaint(s) in this
21 and/or any consolidated and/or related actions as necessary to name each Opt-In Settling
22 Defendant as a party with respect to each type of Covered Product that Opt-In Settling Defendant
23 designates in its Notice of Intent.

24 7. For any Opt-In Settling Defendant that is not already named as a defendant in one
25 of the consolidated actions, CEH is hereby granted leave to (a) file a Stipulation to Consent to
26 General Jurisdiction signed by each Opt-In Settling Defendant, which shall constitute a general
27 appearance as to each; and (b) pay a \$435 appearance fee for each case to which the Opt-In

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1 Settling Defendant will be added, to be allocated from that Opt-In Settling Defendant's payments
2 in Exhibit A to the Amended Consent Judgment.

3 8. The deadlines in this Order may be extended by written stipulation between CEH
4 and Defense Liaison Counsel, following Defense Liaison Counsel's consultation with the Initial
5 Settling Defendants with no objections from them being raised.

6 9. Nothing in this Order or the Consent Judgment shall preclude CEH from resolving
7 any claim against an entity that is not an Initial Settling Defendant or Opt-In Settling Defendant
8 on different terms than are contained in the Consent Judgment or the Amended Consent
9 Judgment.

10 10. Except as specifically stated herein, nothing in this Order shall modify or in any
11 way affect the rights or obligations of the Initial Settling Defendants and CEH as set forth in the
12 Consent Judgment.

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IT IS SO ORDERED.

Dated: 2/21/24



Judge of the Superior Court

Exhibit 1