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Attorneys for Plaintiff  
SUSAN DAVIA

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF MARIN  
UNLIMITED CIVIL JURISDICTION

SUSAN DAVIA,

Plaintiff,

v.

ORANGE CIRCLE STUDIO CORPORATION,  
ORANGE CIRCLE STUDIO, LLC,  
NORDSTROM, INC. and DOES 1-150,

Defendants.

Case No. CV0004481

**CONSENT TO JUDGMENT SETTLEMENT  
AGREEMENT**

Action Filed: November 12, 2024  
Trial Date: None Assigned

1 **1. INTRODUCTION**

2 **1.1 The Parties**

3 This consent to judgment settlement agreement ("Agreement" or "Settlement  
4 Agreement") is entered into by and between plaintiff Susan Davia ("Davia") and defendant  
5 Orange Circle Studio Corporation ("Orange Circle"), with Davia and Orange Circle each  
6 referred to as a "Party" and collectively referred to as the "Parties."

7 **1.2 Davia**

8 Davia is an individual residing in the State of California who seeks to promote awareness  
9 of exposure to toxic chemicals and improve human health by reducing or eliminating hazardous  
10 substances contained in consumer products.

11 **1.3 Orange Circle**

12 Orange Circle, Inc. is a person in the course of doing business for purposes of the Safe  
13 Drinking Water and Toxic Enforcement Act of 1986, California Health & Safety Code §§ 25249.6  
14 *et seq.* ("Proposition 65").

15 **1.4 General Allegations**

16 Davia alleges that Orange Circle is responsible for the design, manufacture, distribution  
17 and/or sale, in the State of California, of certain Studio OH! brand Lip Balm & Hand Lotion Set  
18 products that are alleged to expose users to di(2-ethylhexyl)phthalate ("DEHP") without first  
19 providing any "clear and reasonable warning" under Proposition 65. Pursuant to Proposition  
20 65, DEHP is listed as a carcinogen and a reproductive toxicant. DEHP shall be referred to  
21 hereinafter as the "Listed Chemical."

22 **1.5 Notice of Violation**

23 On June 28, 2024, Davia served Orange Circle, Nordstrom, Inc. and various public  
24 enforcement agencies with a document entitled "60-Day Notice of Violation" that provided  
25 public enforcers and the noticed entities with notice of alleged violations of Health & Safety  
26 Code § 25249.6 for failing to warn consumers of the presence of DEHP found in Studio OH!  
27 branded Lip Balm & Hand Lotion Set products with vinyl storage cases sold in California (AG  
28 Notice 2024-02631). This June 28, 2024, Notice of Violation shall hereafter be referred to as

1 “Notice.” Each Party represents that, as of the date it executes this Agreement, it is not aware of  
2 any public enforcer that is diligently prosecuting a Proposition 65 enforcement action related to  
3 DEHP in the Studio OH! branded Lip Balm & Hand Lotion Set products as identified in the  
4 Notice.

#### 5 **1.6 Complaint**

6 On November 12, 2024, Davia filed a Complaint in the Superior Court of the State of  
7 California for the County of Marin, Case No. CV0004481, alleging violations by defendants of  
8 Health and Safety Code § 25249.6 based on the alleged exposures to DEHP in the subject  
9 covered products (the “Action”).

#### 10 **1.7 No Admission**

11 This Agreement resolves claims that are denied and disputed by Orange Circle. The  
12 Parties enter into this Agreement pursuant to a full and final settlement of any and all claims  
13 between the Parties for the purpose of avoiding prolonged litigation. Orange Circle denies the  
14 material factual and legal allegations contained in the Notice, claims that it did not knowingly or  
15 intentionally expose California consumers to the Listed Chemical through the reasonably  
16 foreseeable use of the Covered Products and otherwise contends that, all Covered Products it  
17 has manufactured, distributed and/or sold in California have been and are in compliance with  
18 all applicable laws and regulations, including Proposition 65. Nothing in this Agreement shall  
19 be construed as an admission by Orange Circle of any fact, finding, issue of law, or violation of  
20 law, nor shall compliance with this Agreement constitute or be construed as an admission by  
21 Orange Circle of any fact, finding, conclusion, issue of law, or violation of law, such being  
22 specifically denied by Orange Circle. However, notwithstanding the foregoing, this section shall  
23 not diminish or otherwise affect Orange Circle’s obligations, responsibilities, and duties under  
24 this Agreement.

#### 25 **1.8 Consent to Jurisdiction**

26 For purposes of this Agreement only, the Parties stipulate that the Marin County  
27 Superior Court has jurisdiction over Orange Circle as to this Agreement, that venue for any  
28 action to enforce this Agreement is proper in County of Marin, that this Agreement shall be

1 construed as made pursuant to Code of Civil Procedure Section 664.6 and the Marin County  
2 Superior Court shall be considered to have jurisdiction to enforce the provisions of this  
3 Agreement until performance in full of the terms of the settlement.

## 4 **2. DEFINITIONS**

5 **2.1** "Covered Product" shall mean all Studio OH! branded Lip Balm & Hand  
6 Lotion Set products including, but not limited to, Be All Smiles, Summer Blooms, Sunny Palms,  
7 Lemon Tree, Moon Phase, Southwest Desert and Dotted Palms Lip Balm & Hand Lotion Sets.

8 **2.2** "Reformulated" Covered Products shall mean any accessible component of  
9 any Covered Product contains less than or equal to 1,000 parts per million ("ppm") of di(2-  
10 ethylhexyl)phthalate ("DEHP"), diisonoyl phthalate ("DINP"), di-n-butyl phthalate ("DBP"), di-  
11 isodecyl phthalate ("DIDP"), di-n-hexyl phthalate ("DnHP") and butyl benzyl phthalate ("BBP")  
12 as determined by a minimum of duplicate quality controlled test results using Environmental  
13 Protection Agency ("EPA") testing methodologies 3580A and 8270C or equivalent  
14 methodologies utilized by federal or state agencies to determine the presence and measure the  
15 quantity of phthalates in solid substances.

16 **2.3** "California Customer" shall mean any ecommerce customer of Orange Circle  
17 with a California ship to address or any retail seller customer of Orange Circle with a retail store  
18 in California or an ecommerce website that sells to individuals with a California ship to address.

19 **2.4** "Effective Date" shall mean March 1, 2025.

## 20 **3. INJUNCTIVE RELIEF**

### 21 **3.1 Products No Longer in Orange Circle's Control**

22 No later than the Effective Date, Orange Circle shall send a letter, electronic or otherwise  
23 ("Notification Letter") to any entity to which Orange Circle has distributed or sold Covered  
24 Products since January 1, 2024, and which entity Orange Circle reasonably believes continues to  
25 maintain any inventory of Covered Products. The Notification Letter shall advise the recipient  
26 that Covered Products "have been tested for the presence of phthalates and found to contain  
27 DEHP, a chemical known to the State of California to cause cancer and birth defects or other  
28 reproductive harm," and request that the recipient label the Covered Products remaining in

1 inventory for sale in or to California with a label that complies with Section 3.3. The Notification  
2 Letter shall request a response from the recipient within 15 days, confirming that the letter was  
3 received. Orange Circle shall maintain records of all correspondence or other communications  
4 generated pursuant to this Section for two years after the Effective Date and shall promptly  
5 produce copies of such records upon Davia's written request.

### 6 **3.2 Product Reformulation and Warnings**

7 For sales of the Covered Product after the Effective Date, Orange Circle will either  
8 comply with reformulation under Section 3.2.1 or product warnings under Section 3.3.

9 **3.2.1** No later than the Effective Date, Orange Circle shall provide the Phthalate Free  
10 concentration standards of Section 2.2 to its then-current vendors of any Covered Product, and  
11 request such entities not to incorporate any raw or component materials that do not meet the  
12 Phthalate Free concentration standards of Section 2.2 into any Covered Product or to supply  
13 any Covered Product to Orange Circle that is not Phthalate Free. Orange Circle shall maintain  
14 copies of all vendor correspondence relating to the Phthalate Free concentration standards for  
15 two years and shall produce such copies to Davia within fifteen (15) business days of receipt of  
16 written request from Davia.

17 **3.2.2** After the Effective Date, Orange Circle shall provide the Phthalate Free  
18 concentration standards of Section 2.2 to any new vendors or manufacturers of any Covered  
19 Product, to its vendors of any vinyl material for any Covered Product and instruct such entities  
20 not to incorporate any raw or component materials that do not meet the Phthalate Free  
21 concentration standards of Section 2.2 into any Covered Product. Prior to purchase and  
22 acquisition of any Covered Product or any vinyl component for any Covered Product from any  
23 new vendor, Orange Circle shall obtain a written confirmation and accompanying laboratory  
24 test result from the new vendor demonstrating compliance with the Phthalate Free  
25 concentration standard in all materials comprising the Covered Product. For every Covered  
26 Product Orange Circle manufactures, causes to be manufactured, orders, causes to be ordered  
27 or otherwise obtains from a new vendor after the Effective Date, Orange Circle shall maintain  
28 copies of all testing of such products demonstrating compliance with this section for two (2)

1 years from the Effective Date, shall maintain copies of all vendor correspondence relating to  
2 the Phthalate Free concentration standards for two (2) years from the Effective Date and shall  
3 produce such copies to Davia within fifteen (15) business days of receipt of written request  
4 from Davia. For every Covered Product Orange Circle contends meets the Phthalate Free  
5 concentration standards and intends to offer for sale without a warning pursuant to Section 3.3  
6 below, Orange Circle shall maintain copies of all vendor correspondence relating to the  
7 Phthalate Free concentration standards for two (2) years from the Effective Date and shall  
8 produce such copies to Davia within fifteen (15) business days of receipt of written request  
9 from Davia.

### 10 **3.3 Covered Product Warnings**

11 **3.3.1** For any Covered Product sold by Orange Circle after the Effective Date to a  
12 California Customer that is not expressly confirmed to meet the Section 2.2 Reformulated  
13 phthalate concentration levels, such product shall only be sold with a Proposition 65 clear and  
14 reasonable warning as set forth hereafter.

### 15 **3.3.2 Retail Store Covered Product Warnings**

16 For any Covered Product sold by Orange Circle from a physical retail store owned,  
17 operated or controlled by Orange Circle that is located in California or to a customer with any  
18 physical retail stores located in California, such Covered Product shall include a warning  
19 prominently placed either on the product, its labeling or its packaging with such  
20 conspicuousness as compared with other words, statements, designs, or devices as to render it  
21 likely to be read and understood by an ordinary individual under customary conditions *before*  
22 purchase or use.

23 Each warning shall either be printed directly on the Covered Product consumer label or  
24 be comprised of an independent hang tag or sticker affixed to the Covered Product. Each  
25 warning shall include the yellow triangle with an internal exclamation point and state:

26  **WARNING:** The vinyl materials of this product can expose you to  
27 chemicals, including di(2-ethylhexyl)phthalate (DEHP), that are known to  
28

1 the State of California to cause cancer and birth defects or other reproductive  
2 harm. For more information go to [www.P65Warnings.ca.gov](http://www.P65Warnings.ca.gov).

3 or

4  **WARNING:** Risk of cancer and reproductive harm from exposure to  
5 di(2-ethylhexyl)phthalate (DEHP). See [www.p65warnings.ca.gov](http://www.p65warnings.ca.gov).

6 or

7  **WARNING:** Can expose you to di(2-ethylhexyl) phthalate (DEHP) a  
8 carcinogen and reproductive toxicant. See [www.p65warnings.ca.gov](http://www.p65warnings.ca.gov).

9 If the Covered Products' packaging contains consumer information in a foreign language, a  
10 warning statement in that language is required.

### 11 3.3.3 Internet Ecommerce Covered Product Warnings

12 A warning must be given in conjunction with the sale, or offer of sale, by Orange Circle  
13 of any Covered Product not confirmed by Orange Circle to be Phthalate Free via any  
14 ecommerce website owned, operated, managed or controlled by, or for the benefit of, Orange  
15 Circle. Orange Circle shall provide warnings required by this section on each Covered  
16 Product's online product page and on one or more web pages displayed to a purchaser during  
17 the checkout process.

18 One of the following warning statements shall be used for all online warning  
19 obligations and shall appear adjacent to or immediately following the display, description, or  
20 price of the Covered Product for which it is given, or through a hyperlink using the word  
21 "WARNING" preceded by the symbol "", in the same or larger type or image size than the  
22 Covered Product description text:

23  **WARNING:** The vinyl materials of this product can expose you to  
24 chemicals, including di(2-ethylhexyl)phthalate (DEHP), that are known to  
25 the State of California to cause cancer and birth defects or other reproductive  
26 harm. For more information go to [www.P65Warnings.ca.gov](http://www.P65Warnings.ca.gov).

27 Alternatively, one of the following "short form" warnings may be used on the ecommerce  
28 website, but only if the same warning language also appears on the product label or consumer  
packaging of the Covered Product itself.

1 or

2 **⚠WARNING:** Risk of cancer and reproductive harm from exposure to  
3 di(2-ethylhexyl)phthalate (DEHP). See [www.p65warnings.ca.gov](http://www.p65warnings.ca.gov).

4 or

5 **⚠WARNING:** Can expose you to di(2-ethylhexyl) phthalate (DEHP) a  
6 carcinogen and reproductive toxicant. See [www.p65warnings.ca.gov](http://www.p65warnings.ca.gov).

7 Where an ecommerce warning used to provide a warning under this section includes  
8 consumer information in a language other than English, the warning in this section must also  
9 be provided in that language in addition to English.

#### 10 **4. MONETARY PAYMENTS**

##### 11 **4.1 Civil Penalty**

12 As a condition of settlement of all the claims referred to in this agreement, Orange Circle  
13 shall pay a total of \$1,600 in civil penalties in accordance with California Health & Safety Code §  
14 25249.12(c)(1) & (d), with 75% of the funds remitted to the California Office of Environmental  
15 Health Hazard Assessment ("OEHHA") and the remaining 25% of the penalty remitted to Davia.

##### 16 **4.2 Augmentation of Penalty Payments**

17 For purposes of the penalty assessment under this Agreement, Davia is relying entirely  
18 upon Orange Circle for accurate, good faith reporting to Davia of the nature and amounts of  
19 relevant sales activity. If within nine (9) months of the Effective Date, Davia discovers and  
20 presents evidence to counsel for Orange Circle that the Covered Products have been distributed  
21 in California in sales volumes materially different (more than 25%) than those identified by  
22 Orange Circle prior to execution of this Agreement, and Orange Circle does not provide Davia  
23 with competent and credible evidence to dispute this claim, then Orange Circle shall be liable for  
24 an additional penalty amount of \$10,000.00. Davia agrees to provide counsel for Orange Circle  
25 with a written demand for all such additional penalties and attorney fees under this Section.  
26 After service of such demand, Orange Circle shall have thirty (30) days to either present evidence  
27 to counter this claim or to agree to the amount of fees and penalties owing by Orange Circle and  
28 submit such payment to Davia in accordance with the method of payment of penalties and fees



1 identified in Section 4.1 and 4.4. Should this thirty (30) day period pass without any such  
2 resolution between the parties and payment of such additional penalties and fees, Davia shall be  
3 entitled to file a formal legal claim for the additional civil penalties pursuant to this Section and  
4 the prevailing party to such action shall be entitled to all reasonable attorney fees and costs  
5 relating to such claim.

#### 6 **4.3 Reimbursement of Davia's Fees and Costs**

7 The Parties acknowledge that Davia and her counsel offered to resolve this dispute  
8 without reaching terms on the amount of fees and costs to be reimbursed to them, thereby  
9 leaving this fee issue to be resolved after the material terms of the agreement had been settled.  
10 The Parties then attempted to (and did) reach an accord on the compensation due to Davia and  
11 her counsel under general contract principles and the private attorney general doctrine codified  
12 at California Code of Civil Procedure section 1021.5, for all work performed in this matter, except  
13 fees that may be incurred on appeal. Under these legal principles, Orange Circle shall pay  
14 Davia's counsel the amount of \$30,000 for fees and costs incurred investigating, litigating and  
15 enforcing this matter.

#### 16 **4.4 Payment Procedures**

17 No later than five (5) business days after plaintiff provides electronic mail notice to  
18 counsel for Defendants that the Court has approved this settlement, Orange Circle' counsel shall  
19 deliver the settlement payments to plaintiff's counsel as follows:

20 a civil penalty check payable to "OEHHA" (EIN: 68-0284486, Memo line "Prop 65  
21 Penalties, 2024-02631"), in the amount of \$1,200;

22 a civil penalty check payable to "Susan Davia" (Tax ID to be supplied, Memo line "Prop  
23 65 Penalties, 2024-02631") in the amount of \$400;

24 an attorney fee and cost reimbursement check payable to "Sheffer Law Firm" (EIN 55-08-  
25 58910, Memo line "2024-02631") in the amount of \$10,000;

26 No later than thirty-five (35) calendar days after plaintiff provides electronic mail notice to  
27 counsel for Defendants that the Court has approved this settlement, Orange Circle' counsel shall  
28 deliver the settlement payments to plaintiff's counsel as follows:

1 an attorney fee and cost reimbursement check payable to "Sheffer Law Firm" (EIN 55-08-  
2 58910, Memo line "2024-02631") in the amount of \$10,000; and

3 No later than sixty-five (65) business days after plaintiff provides electronic mail notice to  
4 counsel for Defendants that the Court has approved this settlement, Orange Circle' counsel shall  
5 deliver the settlement payments to plaintiff's counsel as follows:

6 an attorney fee and cost reimbursement check payable to "Sheffer Law Firm" (EIN 55-08-  
7 58910, Memo line "2024-02631") in the amount of \$10,000.

8 All Section 4.1 and Section 4.3 civil penalty and attorney fee/cost payments shall be  
9 delivered to plaintiff's counsel at the following address:

10 Sheffer Law Firm  
11 Attn: Proposition 65 Controller  
12 232 E. Blithedale Avenue, Suite 210  
13 Mill Valley, CA 94941

14 All Section 4.2 civil penalty and attorney fee/cost payments, if any, shall be delivered to  
15 plaintiff's counsel at the following address on or before the date agreed upon pursuant to that  
16 section or as ordered by the Court:

17 Sheffer Law Firm  
18 Attn: Proposition 65 Controller  
19 232 E. Blithedale Avenue, Suite 210  
20 Mill Valley, CA 94941

21 Orange Circle shall be liable for payment of interest, at a rate of 10% simple interest, for  
22 all amounts due and owing from it under this Section that are not received by Sheffer Law Firm  
23 within two business days of the due date for such payment.

24 While the obligations of this agreement are binding upon execution, the Release of  
25 Orange Circle shall not become effective until after all monetary payments have been made by  
26 Orange Circle and all funds have cleared.  
27  
28

1           **4.5       Issuance of 1099 Forms**

2           After this Agreement has been executed and the settlement funds have been transmitted  
3 to Davia's counsel, Orange Circle shall timely deliver separate 1099 forms to OEHHA, Davia  
4 and the Sheffer Law firm.

5           **5.       RELEASES**

6           **5.1       DAVIA'S RELEASE OF ORANGE CIRCLE**

7           **5.1.1** Plaintiff acting on her own behalf and in the public interest releases Orange Circle  
8 and each of its directors, officers, employees, attorneys, agents, parents, and subsidiaries  
9 ("Releasees") and retailer Nordstrom, Inc. from all claims for violations of Proposition 65 up  
10 through the Effective Date based on exposure to DEHP from the Covered Products as set forth  
11 in the Notice of Violation. Compliance with the terms of this Consent Judgment constitutes  
12 compliance with Proposition 65 with respect to exposures to DEHP from Covered Products as  
13 set forth in the Notice of Violations and Complaint.

14          **5.1.2** Davia also, in her individual capacity and on behalf of her past and current  
15 representatives, agents, attorneys, successors and/or assigns, provides a general release herein  
16 which shall be effective as a full and final accord and satisfaction, as a bar to all actions, causes of  
17 action, obligations, costs, expenses, attorneys' fees, damages, losses, claims, liabilities and  
18 demands of Davia, of any nature, character or kind, known or unknown, suspected or  
19 unsuspected, arising out of the subject matter of the Notice and Complaint as to Covered  
20 Products manufactured, distributed or sold by Orange Circle or Nordstrom before the Effective  
21 Date. Davia acknowledges that she is familiar with section 1542 of the California civil code,  
22 which provides as follows:

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

27          Davia, in her individual capacity and on behalf of her past and current representatives,  
28 agents, attorneys, successors and/or assigns expressly waives and relinquishes any and all

1 rights and benefits that she may have under, or which may be conferred on her by the  
2 provisions of Section 1542 of the California Civil Code as well as under any other state or federal  
3 statute or common law principle of similar effect, to the fullest extent that she may lawfully  
4 waive such rights or benefits pertaining to the released matters. In furtherance of such intention,  
5 excepting Section 4.2, the release hereby given shall be and remain in effect as a full and  
6 complete release notwithstanding the discovery or existence of any such additional or different  
7 claims or facts arising out of the released matters. This Section 1542 release applies only to  
8 claims arising out of the subject matter of the Notice and Complaint as to Covered Products  
9 manufactured, distributed or sold by Orange Circle or Nordstrom, Inc. before the Effective Date.

10 **5.1.3** This section 5.1 release shall not extend upstream to any entities, other than  
11 Orange Circle, that manufactured the Covered Products or any component parts thereof, or any  
12 distributors or suppliers who sold the covered products or any component parts thereof to  
13 Orange Circle.

14 **5.2 Orange Circle's Release of Davia**

15 Orange Circle, each on behalf of itself, its past and current agents, representatives,  
16 attorneys, successors, and/or assignees, hereby waives any and all claims against Davia and her  
17 attorneys and other representatives, for any and all actions taken or statements made (or those  
18 that could have been taken or made) by Davia and her attorneys and other representatives,  
19 whether in the course of investigating claims, otherwise seeking to enforce Proposition 65  
20 against it in this matter, or with respect to DEHP in the Covered Products. Orange Circle  
21 acknowledges that it is familiar with Section 1542 of the California Civil Code, which provides  
22 as follows:

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

27 Orange Circle expressly waives and relinquishes any and all rights and benefits which it  
28 may have under, or which may be conferred on it by the provisions of Section 1542 of the

California Civil Code as well as under any other state or federal statute or common law principle of similar effect, to the fullest extent that he may lawfully waive such rights or benefits pertaining to the released matters. In furtherance of such intention, the release hereby given shall be and remain in effect as a full and complete release notwithstanding the discovery or existence of any such additional or different claims or facts arising out of the released matters.

**6. COURT APPROVAL**

This Judgment is effective upon execution but must also be approved by the Court. If the Court does not approve this Judgment in its entirety, the Parties shall meet and confer to determine whether to modify the terms of the Judgment and to resubmit it for approval. In meeting and conferring, the Parties agree to negotiate in good faith to reach agreement on any actions reasonably necessary to amend and/or modify this Judgment in order to further the mutual intention of the Parties in entering into this Judgment. The Judgment shall become null and void if, for any reason, it is not approved and entered by the Court, as it is executed, within one year after it has been fully executed by all Parties. The Parties agree that, upon Court approval, a Court judgment shall be entered on the terms of this Judgment.

**7. SEVERABILITY**

If any of the provisions of this Agreement are found by a court to be unenforceable, the validity of the enforceable provisions remaining, after express agreement of the Parties, shall not be adversely affected, unless the Court finds that any unenforceable provision is not severable from the remainder of the Agreement.

**8. GOVERNING LAW**

The terms of this Agreement shall be governed by the laws of the State of California.

**9. NOTICES**

When any Party is entitled to receive any notice under this Agreement, the notice shall be sent by certified mail or electronic mail to the following:

For Orange Circle:

Kelly Carioti or current CEO  
Orange Circle Studio Corp.  
2 Technology Drive

Irvine, CA 92618

With a copy to its counsel:

Law Office of Frank N. Lee  
3435 Wilshire Blvd. #1400  
Los Angeles, CA 90010  
franknlee@gmail.com

For Davia to:

Proposition 65 Coordinator  
Sheffer Law Firm  
232 E. Blithedale Ave., Suite 210  
Mill Valley, CA 94941  
gregs@sheffer-law.net

Any Party may modify the person and address to whom the notice is to be sent by sending each other Party notice by certified mail and/or other verifiable form of written communication.

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

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

**11. MODIFICATION**

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

**12. ENTIRE AGREEMENT**

This Agreement contains the sole and entire agreement and understanding of the Parties with respect to the entire subject matter hereof, and any and all prior discussions, negotiations, commitments, and understandings related hereto. No representations, oral or otherwise, express or implied, other than those contained herein have been made by any Party hereto. No other agreements not specifically referred to herein, oral or otherwise, shall be deemed to exist or to bind any of the Parties. No supplementation, modification, waiver, or termination of this Agreement shall be binding unless executed in writing by the Party to be bound. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any of

1 the other provisions whether or not similar, nor shall such waiver constitute a continuing  
2 waiver.

3 **13. ATTORNEY'S FEES**

4 **13.1** Should either Party prevail on any motion, application for order to show cause  
5 or other proceeding to enforce a violation of this Agreement, that Party shall be entitled to its  
6 reasonable attorney fees and costs incurred as a result of such motion, order or application,  
7 consistent with C.C.P. §§ 1021 and 1021.5.

8 **13.2** Except as otherwise specifically provided herein, each Party shall bear its own  
9 costs and attorney's fees in connection with the Notice.

10 **13.3** Nothing in this Section shall preclude a Party from seeking an award of  
11 sanctions pursuant to law.

12 **14. NEUTRAL CONSTRUCTION**

13 Both Parties and their counsel have participated in the preparation of this Agreement  
14 and this Agreement is the result of the joint efforts of the Parties. This Agreement was subject to  
15 revision and modification by the Parties and has been accepted and approved as to its final form  
16 by all Parties and their counsel. Accordingly, any uncertainty or ambiguity existing in this  
17 Agreement shall not be interpreted against any Party as a result of the manner of the  
18 preparation of this Agreement. Each Party to this Agreement agrees that any statute or rule of  
19 construction providing that ambiguities are to be resolved against the drafting Party should not  
20 be employed in the interpretation of this Agreement and, in this regard, the Parties hereby  
21 waive California Civil Code Section 1654.

22 **15. COUNTERPARTS, FACSIMILE SIGNATURES**

23 This Agreement may be executed in counterparts and by facsimile or portable document  
24 format (PDF), each of which shall be deemed an original, and all of which, when taken together,  
25 shall constitute one and the same document.  
26  
27  
28

1 **16. AUTHORIZATION**

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

5 **IT IS SO AGREED**

|                                                                                                                                                              |                                                                               |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------|
| <p>6 <i>May 6, 2025</i><br/>7 Dated: April <u>  </u>, 2025<br/>8 <i>Kelly A. Caroti</i><br/>9 Kelly Caroti or current CEO<br/>Orange Circle Studio Corp.</p> | <p>Dated: April <u>30</u>, 2025<br/><i>S. Davia</i><br/>Susan Davia<br/>→</p> |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------|