

1 Evan Smith (Bar No. SBN 242352)
2 BRODSKY SMITH
3 9465 Wilshire Blvd., Ste. 300
4 Beverly Hills, CA 90212
5 Tel: (877) 534-2590
6 Fax: (310) 247-0160

7 *Attorneys for Plaintiff*

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

11 EMA BELL,

12 Plaintiff,

13 v.

14 CULTUREFLY LLC,

15 Defendant.

Case No.: CGC-25-622656

CONSENT JUDGMENT

Judge: Joseph M. Quinn
Dept.: 302

Hearing Date: August 21, 2025

Hearing Time: 9:00 AM

Complaint Filed: February 24, 2025

1 **1. INTRODUCTION**

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

9 **1.2 Allegations and Representations.** Bell alleges that Defendant has exposed
10 individuals to lead from its sales of (a) Oreo cookie jars, and (b) Winnie The Pooh mug sets, without
11 providing a clear and reasonable exposure warning pursuant to Proposition 65. Lead is listed
12 pursuant to Proposition 65 as a chemical known to the State of California to cause cancer and birth
13 defects or other reproductive harm.

14 **1.3 Notices of Violation/Action.**

15 **1.3.1** On February 29, 2024, Bell served The TJX Companies, Inc. and various
16 public enforcement agencies with documents entitled “60-Day Notice of Violation” pursuant to
17 Health & Safety Code §25249.7(d) (the “February Notice”), alleging that The TJX Companies, Inc.
18 violated Proposition 65 for failing to warn consumers and customers that use of Oreo cookie jars
19 exposes users in California to lead. No public enforcer has brought and is diligently prosecuting
20 the claims alleged in the February Notice.

21 **1.3.2** On July 8, 2024, Bell served Culturefly and various public enforcement
22 agencies with documents entitled “60-Day Notice of Violation” pursuant to Health & Safety Code
23 §25249.7(d) (the “July Notice”), alleging that Defendant violated Proposition 65 for failing to warn
24 consumers and customers that use of Oreo cookie jars exposes users in California to lead. No public
25 enforcer has brought and is diligently prosecuting the claims alleged in the July Notice.

26 **1.3.3** On August 26, 2024, Bell served Culturefly and various public enforcement
27 agencies with documents entitled “60-Day Notice of Violation” pursuant to Health & Safety Code
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1 §25249.7(d) (the “August Notice”), alleging that Defendant violated Proposition 65 for failing to
2 warn consumers and customers that use of Winnie The Pooh mug sets exposes users in California
3 to lead. No public enforcer has brought and is diligently prosecuting the claims alleged in the
4 August Notice.¹

5 1.3.4 On February 24, 2025, Bell filed a complaint (the “Complaint”).

6 1.4 For purposes of this Consent Judgment only, the Parties stipulate that this Court has
7 jurisdiction over Defendant as to the allegations contained in the Complaint filed in this matter, that
8 venue is proper in the County of San Francisco, and that this Court has jurisdiction to approve,
9 enter, and oversee the enforcement of this Consent Judgment as a full and final binding resolution
10 of all claims which were or could have been raised in the Complaint based on the facts alleged
11 therein and in the Notice.

12 1.5 Defendant denies the material allegations contained in Bell’s Notices and Complaint
13 and maintains that it has not violated Proposition 65. Nothing in this Consent Judgment shall be
14 construed as an admission by Defendant of any fact, finding, issue of law, or violation of law; nor
15 shall compliance with this Consent Judgment constitute or be construed as an admission by
16 Defendant of any fact, finding, conclusion, issue of law, or violation of law, such being specifically
17 denied by Defendant. However, this section shall not diminish or otherwise affect the obligations,
18 responsibilities, and duties of Defendant under this Consent Judgment.

19 **2. DEFINITIONS**

20 2.1 **Covered Products.** The term “Covered Products” means (a) Oreo cookie jars and
21 (b) Winnie The Pooh mug sets that are manufactured, distributed, shipped into California and
22 offered for sale in California by Culturefly that expose users to lead.

23 2.2 **Effective Date.** The term “Effective Date” means the date this Consent Judgment is
24 entered as a Judgment of the Court.

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¹ The February Notice, July Notice, and August Notice are collectively referred to herein as, the “Notices.”

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

2 **3.1 Reformulation of Products.** Commencing within sixty (60) days after the Effective
3 Date, and continuing thereafter, Products that Culturefly directly manufactures, imports,
4 distributes, sells, or offers for sale in California shall either be: (a) reformulated Products pursuant
5 to § 3.2, below; or (b) labeled with a clear and reasonable exposure warning pursuant to §§ 3.3 -
6 3.4, below. For purposes of this Settlement Agreement, a “Reformulated Product” is a Product that
7 is in compliance with the standard set forth in § 3.2, below. The warning requirement set forth in
8 §§ 3.3 - 3.4 shall not apply to any Reformulated Product.

9 **3.2 Reformulation Standard.** “Reformulated Products” shall mean Products that
10 produce a wipe test result no higher than 1 microgram (µg) of lead when analyzed pursuant to
11 NIOSH method no. 9100.

12 **3.3 Clear and Reasonable Warning.** Commencing within 60 days after the Effective
13 Date, and continuing thereafter, a clear and reasonable exposure warning as set forth in this §§ 3.3
14 and 3.4 must be provided for all Products that Culturefly manufacturers, imports, distributes, sells,
15 or offers for sale in California that is not a Reformulated Product. There shall be no obligation for
16 Culturefly to provide an exposure warning for Products that entered the stream of commerce within
17 60 days after the Effective Date. The warning shall consist of either the **Warning** or **Alternative**
18 **Warning** described in §§ 3.3(a) or (b), respectively:

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

20 ⚠ **WARNING:** This product can expose you to chemicals including lead, which
21 is known to the State of California to cause cancer and birth defects or other
22 reproductive harm. For more information go to www.P65Warnings.ca.gov.

22 (b) **Alternative Warning:** Culturefly may, but is not required to, use the
23 alternative short-form warning² as set forth in this § 3.3(b) (“**Alternative Warning**”) as follows:

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

25 **3.4 A Warning or Alternative Warning** provided pursuant to § 3.3 must print the word
26 “**WARNING:**” in all capital letters and in bold font, followed by a colon. The warning symbol to

27 ² An **Alternative Warning** on a Covered Product manufactured and labeled after January 1, 2028 shall be provided
28 in accordance with Title 27, California Code of Regulations, § 25603(b).

1 the left of the word **“WARNING:”** must be a black exclamation point in a yellow equilateral
2 triangle with a black outline, except that if the sign or label for the Products does not use the color
3 yellow, the symbol may be in black and white. The symbol must be in a size no smaller than the
4 height of the word **“WARNING:”**. The **Warning** or **Alternative Warning** shall be affixed to or
5 printed on the Products’ packaging or labeling, or on a placard, shelf tag, sign or electronic device
6 or automatic process only if such electronic device or automatic process provides the **Warning** or
7 **Alternative Warning** without the purchaser having to seek it out, provided that the **Warning** or
8 **Alternative Warning** is displayed with such conspicuousness, as compared with other words,
9 statements, or designs as to render it likely to be read and understood by an ordinary individual
10 under customary conditions of purchase or use. The **Warning** or **Alternative Warning** may be
11 contained in the same section of the packaging, labeling, or instruction booklet that states other
12 safety warnings, if any, concerning the use of the Product and shall be at least the same size as
13 those other safety warnings. If “consumer information,” as that term is defined in Title 27,
14 California Code of Regulations, Section 25600.1(c) as it may be amended from time to time, is
15 provided in a foreign language, Culturefly shall provide the **Warning** or **Alternative Warning** in
16 the foreign language in accordance with applicable warning regulations adopted by the State of
17 California’s Office of Environmental Health Hazard Assessment (“OEHHA”).

18 In addition to affixing the **Warning** or **Alternative Warning** to the Product’s packaging or
19 labeling, the **Warning** or **Alternative Warning** shall be posted on websites where Culturefly offers
20 Products for sale to consumers in California. The requirements of this Section shall be satisfied if
21 the **Warning** or **Alternative Warning**, or a clearly marked hyperlink using the word
22 **“WARNING,”** appears on the product display page, or by otherwise prominently displaying the
23 warning to the purchaser prior to completing the purchase. To comply with this Section, Culturefly
24 shall (a) post the **Warning** or **Alternative Warning** on its own website and, if it has the ability to
25 do so, on the websites of its third-party internet sellers; and (b) if it does not have the ability to post
26 the **Warning** or **Alternative Warning** on the websites of its third-party internet sellers, provide
27 such sellers with written notice in accordance with Title 27, California Code of Regulations, Section
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1 25600.2. Third-party internet sellers of the Product that have been provided with written notice in
2 accordance with Title 27, California Code of Regulations, Section 25600.2 are not released in
3 Section 5 of this Agreement if they fail to meet the warning requirements of this Section.

4 **3.5 Compliance with Warning Regulations.** The Parties agree that Culturefly shall be
5 deemed to be in compliance with this Settlement Agreement by either adhering to § 3 of this
6 Settlement Agreement or by complying with warning regulations adopted by the State of
7 California's OEHHA applicable to the Product and the exposure at issue.

8 **4. MONETARY TERMS**

9 **4.1 Civil Penalty.** Culturefly shall pay \$2,000.00 as a Civil Penalty pursuant to Health
10 and Safety Code section 25249.7(b), to be apportioned in accordance with California Health &
11 Safety Code § 25192, with 75% of these funds remitted to OEHHA and the remaining 25% of the
12 Civil Penalty remitted to Bell, as provided by California Health & Safety Code § 25249.12(d).

13 **4.1.1** Within ten (10) days of the Effective Date, Culturefly shall issue two
14 separate checks for the Civil Penalty payment to (a) "OEHHA" in the amount of \$1,500.00; and
15 to (b) "Ema Bell" in the amount of \$500.00. Payment owed to Bell pursuant to this Section shall
16 be delivered to the following payment address:

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

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

22 For United States Postal Service Delivery:

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

26 For Non-United States Postal Service Delivery:

27 Mike Gyurics
28 Fiscal Operations Branch Chief
Office of Environmental Health Hazard Assessment

1 1001 I Street
2 Sacramento, CA 95814

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

5 4.2 **Attorneys' Fees.** Within ten (10) days of the Effective Date, Culturefly shall pay
6 \$23,000.00 to Brodsky Smith as complete reimbursement for Bell's attorneys' fees and costs
7 incurred as a result of investigating, bringing this matter to the attention of Culturefly, litigating
8 and negotiating and obtaining judicial approval of a settlement in the public interest, pursuant to
9 Code of Civil Procedure § 1021.5.

10 **5. RELEASE OF ALL CLAIMS**

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

1 5.2 In addition to the foregoing, Bell, on behalf of herself, her past and current agents,
2 representatives, attorneys, and successors and assignees, and not in her representative capacity,
3 hereby waives all rights to institute or participate in, directly or indirectly, any form of legal action
4 and releases Culturefly, Defendant Releasees, and Downstream Releasees from any and all manner
5 of actions, causes of action, claims, demands, rights, suits, obligations, debts, contracts, agreements,
6 promises, liabilities, damages, charges, losses, costs, expenses, and attorneys' fees, of any nature
7 whatsoever, known or unknown, in law or equity, fixed or contingent, now or in the future, with
8 respect to any alleged violations of Proposition 65 related to or arising from Covered Products
9 manufactured, distributed, or sold by Culturefly, Defendant Releasees or Downstream Releasees.
10 With respect to the foregoing waivers and releases in this paragraph, Bell hereby specifically
11 waives any and all rights and benefits which she now has, or in the future may have, conferred by
12 virtue of the provisions of § 1542 of the California Civil Code, which provides as follows:

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

19 5.3 Culturefly waives any and all claims against Bell, her attorneys and other
20 representatives, for any and all actions taken, or statements made (or those that could have been
21 taken or made) by Bell and her attorneys and other representatives, whether in the course of
22 investigating claims or otherwise seeking enforcement of Proposition 65 against it in this matter,
23 and with respect to Covered Products.

24 **6. INTEGRATION**

25 6.1 This Consent Judgment contains the sole and entire agreement of the Parties and
26 any and all prior negotiations and understandings related hereto shall be deemed to have been
27 merged within it. No representations or terms of agreement other than those contained herein exist
28 or have been made by any Party with respect to the other Party or the subject matter hereof.

1 **7. NOTICES**

2 7.1 Unless specified herein, all correspondence and notices required to be provided
3 pursuant to this Consent Judgment shall be in writing and personally delivered or sent by: (i) first-
4 class, (registered or certified mail) return receipt requested; or (ii) overnight courier on any party
5 by the other party at the following addresses:

6 For Defendant:

7 Corrie Plant
8 Bick Law LLP
9 520 Newport Center Dr., Ste. 750
 Newport Beach, CA 92660

10 And

11 For Bell:

12 Evan Smith
13 Brodsky Smith
 9465 Wilshire Blvd., Ste. 300
 Beverly Hills, CA 90212

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

16 **8. COUNTERPARTS; FACSIMILE SIGNATURES**

17 8.1 This Consent Judgment may be executed in counterparts and by facsimile, each of
18 which shall be deemed an original, and all of which, when taken together, shall constitute one and
19 the same document.

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

22 9.1 Bell agrees to comply with the requirements set forth in California Health & Safety
23 Code § 25249.7(f) and to promptly bring a Motion for Approval of this Consent Judgment.
24 Defendant agrees it shall support approval of such Motion.

25 9.2 This Consent Judgment shall not be effective until it is approved and entered by the
26 Court and shall be null and void if, for any reason, it is not approved by the Court. In such case, the
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1 Parties agree to meet and confer on how to proceed and if such agreement is not reached within 30
2 days, the case shall proceed on its normal course.

3 9.3 If the Court approves this Consent Judgment and is reversed or vacated by an
4 appellate court, the Parties shall meet and confer as to whether to modify the terms of this Consent
5 Judgment. If the Parties do not jointly agree on a course of action to take, the case shall proceed on
6 its normal course on the trial court's calendar.

7 **10. MODIFICATION**

8 10.1 This Consent Judgment may be modified only by further stipulation of the Parties
9 and the approval of the Court or upon the granting of a motion brought to the Court by either Party.

10 **11. ATTORNEY'S FEES**

11 11.1 A Party who unsuccessfully brings or contests an action arising out of this Consent
12 Judgment shall be required to pay the prevailing party's reasonable attorney's fees and costs.

13 11.2 Nothing in this Section shall preclude a Party from seeking an award of sanctions
14 pursuant to law.

15 **12. RETENTION OF JURISDICTION**

16 12.1 This Court shall retain jurisdiction of this matter to implement or modify the
17 Consent Judgment.

1 **13. AUTHORIZATION**

2 13.1 The undersigned are authorized to execute this Consent Judgment on behalf of their
3 respective Parties and have read, understood, and agree to all of the terms and conditions of this
4 document and certify that he or she is fully authorized by the Party he or she represents to execute
5 the Consent Judgment on behalf of the Party represented and legally bind that Party. Except as
6 explicitly provided herein each Party is to bear its own fees and costs.

7 **AGREED TO:**

AGREED TO:

8
9 Date: _____

June 25, 2025
Date: _____

10 By: _____
11 EMA BELL

By: Milind Shah
CULTUREFLY LLC

12
13 **IT IS SO ORDERED, ADJUDGED AND DECREED:**

14
15 Dated: _____

Judge of Superior Court

1 **13. AUTHORIZATION**

2 13.1 The undersigned are authorized to execute this Consent Judgment on behalf of their
3 respective Parties and have read, understood, and agree to all of the terms and conditions of this
4 document and certify that he or she is fully authorized by the Party he or she represents to execute
5 the Consent Judgment on behalf of the Party represented and legally bind that Party. Except as
6 explicitly provided herein each Party is to bear its own fees and costs.

7 **AGREED TO:**


AGREED TO:

8
9 Date:

7 | 3 | 25

Date:

10 By:



11 EMA BELL

By:

CULTUREFLY LLC

12
13 **IT IS SO ORDERED, ADJUDGED AND DECREED:**

14
15 Dated:

Judge of Superior Court