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Attorney for Plaintiff
CalSafe Research Center, Inc.

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

CALSAFE RESEARCH CENTER, INC., a
California non-profit corporation,

Plaintiff,

v.

ELIVATE NUTRITION L.L.C., a Nevada
Domestic Limited Liability Company; and
DOES 1 to 100,

Defendants.

Case No.: 26TRCV00830

[PROPOSED] STIPULATED
CONSENT JUDGMENT

(Health & Safety Code § 25249, et seq.)

Complaint Filed: March 6, 2026
Trial Date: TBD

1 **I. INTRODUCTION**

2 **1.1** The Parties. This Consent Judgment is entered into by and between CalSafe Research
3 Center, Inc. (“Plaintiff”), and Elivate Nutrition, LLC (“Defendant”) (collectively, the “Parties”).

4 **1.2 General Allegations.** On March 6, 2026, Plaintiff initiated this action by filing a
5 Complaint for Civil Penalties and Injunctive Relief (the “Complaint”) pursuant to *Health & Safety*
6 *Code* § 25249.5 *et seq.* (“Proposition 65”) against Defendant. In this action, Plaintiff alleges that
7 Defendant’s Powder Drink Mix products, including but not limited to “Swolverine, Greens + Reds
8 Natural Orange (UPC# 850037327072)” and “Swolverine, Pre-W Advanced Pre-Workout Formula
9 Mango Lemonade (UPC# 860007637315)” (collectively the “Covered Product”) contain lead, a
10 chemical listed under Proposition 65 as a carcinogen and reproductive toxin. Plaintiff alleges that the
11 Covered Product exposes consumers to lead at a level requiring a Proposition 65 warning. Plaintiff
12 alleges that Defendant qualifies as a “Person” within the meaning of Proposition 65, and that
13 Defendant manufactures, distributes, and/or offers for sale in the State of California the Covered
14 Product.

15 **1.3 Notice of Violation.** The Complaint is based on allegations contained in Plaintiff’s
16 Notice of Violation dated October 10, 2025 (the “Notice”), that was served on the California
17 Attorney General, other public enforcers, and Defendant. A true and correct copy of the Notice is
18 attached hereto as **Exhibit A** and incorporated by reference. More than 60 days have passed since
19 the Notice was served on the Attorney General, public enforcers, and Defendant; no designated
20 governmental entity has filed a Complaint against Defendant with regard to the Covered Product or
21 the alleged violations.

22 **1.4** Plaintiff’s Notice and Complaint allege that the use of the Covered Product by
23 California consumers exposes them to lead without first receiving a clear and reasonable warning
24 from Defendant, which is a violation of California *Health & Safety Code* § 25249.6. Defendant
25 denies all material allegations contained in the Notice and Complaint.

26 **1.5** The Parties have entered into this Consent Judgment in order to settle, compromise,
27 and resolve disputed claims and thus avoid prolonged and costly litigation. Defendant denies the
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1 material, factual, and legal allegations in the Notice and Complaint and maintains that all of the
2 products, including the Covered Product, that it sold and/or distributed for sale in California have
3 been and are in compliance with all laws. Nothing in this Consent Judgment nor compliance with
4 this Consent Judgment shall constitute or be construed as an admission by Defendant or by any of
5 their respective officers, directors, shareholders, employees, agents, parent companies, subsidiaries,
6 divisions, affiliates, franchisees, licensees, customers, suppliers, distributors, wholesalers, or retailers
7 of any fact, finding, conclusion, issue of law, or violation of law, such specifically denied by the
8 Defendant. This Section shall not, however, diminish or otherwise affect Defendant's obligations,
9 responsibilities, and duties under this Consent Judgment.

10 **1.6** Except as expressly set forth herein, nothing in this Consent Judgment shall prejudice,
11 waive, or impair any right, remedy, argument, or defense the Parties may have in any current or
12 future legal proceeding unrelated to this proceeding.

13 **1.7 Effective Date.** For purposes of this Consent Judgment, the "Effective Date" shall be
14 the date the Consent Judgment has been approved and entered by the Court.

15 **II. JURISDICTION AND VENUE**

16 **2.1** For purposes of this Consent Judgment and any further court action that may become
17 necessary to enforce this Consent Judgment only, the Parties stipulate that this Court has subject
18 matter jurisdiction over the allegations of violations contained in the Complaint and personal
19 jurisdiction over Defendant as to the acts alleged in the Complaint.

20 **2.2** For purposes of this Consent Judgment, the Parties stipulate that venue is proper in
21 Los Angeles County, California, and that this Court has jurisdiction to enter this Consent Judgment
22 as a full and final resolution of all claims up through and including the Effective Date that were or
23 could have been asserted in this action based on the facts alleged in the Notice and Complaint.

24 **III. INJUNCTIVE RELIEF**

25 **3.1 Lead Reduction, Daily Lead Exposure Level, Compliance Date.** Commencing
26 within 90 days after the Effective Date (the "Compliance Date"), and continuing thereafter, Covered
27 Product manufactured and Shipped for Sale in California shall not expose a person to more than 0.5
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1 micrograms of lead per serving, with serving size measured by the serving size specified on the label
2 of the Covered Product (the “Daily Lead Exposure Level”) unless subject to the provisions of
3 Paragraphs 3.3 through 3.6 concerning warnings.

4
5 **3.2 Shipped for Sale in California.** “Shipped for Sale in California” means the Covered
6 Product that Defendant either directly ships to California for sale in California, or that it sells to a
7 distributor or retailer who Defendant actually knows will sell the Covered Product to consumers in
8 California.

9 **3.3 Clear and Reasonable Warnings, When Required.** Defendant agrees by the
10 Compliance Date to only manufacture Covered Product that will be Shipped for Sale in California
11 that contains a warning as provided for in Paragraphs 3.4 through 3.6, except as provided in
12 Paragraph 3.1.

13 **3.4 Warning Requirements.** A clear and reasonable warning for the Covered Product
14 shall consist of a warning affixed to the packaging, label, tag, or directly to each Covered Product
15 Shipped for Sale in California by Defendant, or by any other method of transmission specified by 27
16 C.C.R. § 25602, that contains one of the following statements:

17 (A)

18 **WARNING:** Consuming this product can expose you to lead, which is known to the
19 State of California to cause [cancer and] birth defects or other reproductive harm. For
20 more information go to www.P65Warnings.ca.gov/food.

21 Defendant may, at its option, use the words “**CA WARNING:**” or “**CALIFORNIA**
22 **WARNING:**” instead of the word “**WARNING:**”.

23 (B)

24 **WARNING:** Risk of [cancer and] reproductive harm from exposure to lead. See
25 www.P65Warnings.ca.gov/food.

26 or

27 **WARNING:** Can expose you to lead, a [carcinogen and] reproductive toxicant. See
28 www.P65Warnings.ca.gov/food.

1 Defendant may, at its option, use the words “**CA WARNING:**” or “**CALIFORNIA**
2 **WARNING:**” instead of the word “**WARNING:**”.

3 Defendant shall use the phrase “cancer and” or “carcinogen and” in the warning only if the
4 daily lead exposure level is greater than 15 micrograms of lead per day.

5 The warning shall be offset in a box with a black outline and must be in a type size no
6 smaller than the largest type size used for other consumer information on the Covered Product.
7 “Consumer information” includes warnings, directions for use, ingredient lists, and nutritional
8 information. “Consumer information” does not include the brand name, product name, company
9 name, location of manufacture, or product advertising. In no case shall the warning appear in a
10 type size smaller than six (6) point type. The warning shall also comply with 27 C.C.R.
11 § 25607.1(c). Specifically, where the product sign, label, or shelf tag used to provide a warning
12 includes consumer information in a language other than English, the warning must also be provided
13 in that language in addition to English.

14 **3.5 Warnings for Internet Sales.** For any Covered Product sold over the internet where
15 Defendant has actual knowledge it will be shipped to a consumer in California, the warning shall be
16 displayed as follows: (A) on the primary display page for the Covered Product; (B) as a clearly
17 marked hyperlink using the word “WARNING” or “CA WARNING” or “CALIFORNIA
18 WARNING” in all capital and bold letters on the Covered Product’s primary display page, so long
19 as the hyperlink goes directly to a page prominently displaying the warning without content that
20 detracts from the warning; (C) on the checkout page or any other page in the checkout process when
21 a California delivery address is indicated for the purchase of the Covered Product and with the warning
22 clearly associated with the Covered Product to indicate that the Covered Product is subject to the
23 warning; or (D) by otherwise prominently displaying the warning to the purchaser prior to
24 completing the purchase of the Covered Product. The warning is not prominently displayed if the
25 purchaser must search for it in the general content of the website.

26 **3.6 Warning Prominence.** Defendant agrees that each warning shall be prominently
27 placed with such conspicuousness, as compared with the other words, statements, designs, or devices,
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as to render it likely to be read and understood by an ordinary individual under customary conditions before purchase or use.

3.7 Compliance with Clear and Reasonable Warning. Defendant shall be deemed to be in compliance with this Consent Judgment after the Effective Date by (A) adhering to Paragraphs 3.1 through 3.6, or (B) by complying with any future warning requirements adopted by the State of California's Office of Environmental Health Hazard Assessment ("OEHHA") applicable to the Covered Product and chemical at issue. If regulations or legislation are enacted or issued providing that a Proposition 65 warning for the Covered Product is not required as set forth in this Consent Judgment, a lack of warning as set forth in this Consent Judgment will not be a breach of this Consent Judgment.

3.8 Grace Period of Existing Inventory. The injunctive requirements of Section III shall not apply to the Covered Product that is already in the stream of commerce as of the Compliance Date, which Covered Product is expressly subject to the releases provided in Section VII.

3.9 Entry of Consent Judgment. Upon execution of this Consent Judgment by the Parties, Plaintiff shall notice a Motion for Court Approval and, within ten (10) days of approval of the Consent Judgment by the Court, comply with the requirements set forth in California *Health & Safety Code* § 25249.7(f).

3.10 Attorney General Objection. If the California Attorney General objects to any term in this Consent Judgment, the Parties shall use their best efforts to resolve the concern in a timely manner, and if possible, prior to the hearing on the motion.

3.11 Void if Not Approved. If this Consent Judgment is not approved by the Court, it shall be void and have no force or effect.

IV. MONETARY TERMS

4.1 Total Settlement Amount. In full satisfaction of all potential civil penalties, additional settlement payments, attorney fees, and costs, Defendant shall make a total payment of Twenty-Six Thousand Dollars (\$26,000.00) (the "Total Settlement Amount"), apportioned into a Civil Penalty, and Attorney Fees and Costs as set forth in Paragraphs 4.2 and 4.3, below.

4.2 Civil Penalty Payment. Pursuant to California *Health & Safety Code* § 25249.7(b)(2) and in settlement of all claims alleged in the Notice and Complaint, Defendant agrees to pay Two Thousand Six Hundred Dollars (\$2,600.00) in Civil Penalties. The Civil Penalty payment will be apportioned in accordance with California *Health & Safety Code* §§ 25249(c)(1), (d), with seventy-five (75) percent of these funds remitted to OEHHA, and the remaining twenty-five (25) percent of the funds retained by Plaintiff. Within ten (10) days of the Effective Date, Defendant shall issue a check to “OEHHA” in the amount of One Thousand Nine Hundred and Fifty Dollars (\$1,950.00), with “Prop 65 Penalties” written in the Memo Line; and Defendant shall, pursuant to the instructions below, wire to Plaintiff the amount of Six Hundred and Fifty Dollars (\$650.00).

All payments made to OEHHA (EIN: 68-0284486) pursuant to this Paragraph shall be delivered directly to OEHHA at the following address:

For United States Postal Delivery Service:

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 Delivery Service:

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

All penalty payments owed to Plaintiff shall be sent via wire to:

Wire Instructions:

Account Name: The Law Offices of Joseph R. Manning
Bank Name: J.P. Morgan Chase Bank, N.A.
Bank Address: 2967 Michelson Dr, Ste A, Irvine, CA 92612
Wire Routing / ABA Number: 021000021
Swift Code: CHASUS33
Account Number: 579068902

For further benefit of: Civil Penalty Payment Case No. 26TRCV00830

1 **4.3 Attorney Fees and Costs.** Within ten (10) days of the Effective Date, Defendant
2 agrees to pay Twenty-Three Thousand Four Hundred Dollars (\$23,400.00) to Plaintiff and its counsel
3 of record for all fees and costs incurred in investigating, bringing this matter to the attention of
4 Defendant, litigating, negotiating, and obtaining judicial approval of a settlement in the public
5 interest.

6
7 **Wire Instructions:**

8 Account Name: The Law Offices of Joseph R. Manning

9 Bank Name: J.P. Morgan Chase Bank, N.A.

10 Bank Address: 2967 Michelson Dr, Ste A, Irvine, CA 92612

11 Wire Routing / ABA Number: 021000021

12 Swift Code: CHASUS33

13 Account Number: 579068902

14 For further benefit of: Attorney Fees Case No. 26TRCV00830

15 **4.4** In the event that Defendant fails to remit the Total Settlement Amount or any portion
16 thereof owed under Paragraphs 4.1 through 4.3 of this Consent Judgment before the due date,
17 Defendant shall be deemed to be in material breach of its obligations under this Consent Judgment.
18 Plaintiff shall provide written notice of delinquency to Defendant via electronic mail to Defendant's
19 counsel of record. If Defendant fails to deliver any portion of or all of the Total Settlement Amount
20 within five (5) days from the written notice, the Total Settlement Amount shall accrue interest at the
21 statutory judgment interest rate provided in California *Code of Civil Procedure* § 685.010.
22 Additionally, Defendant agrees to pay Plaintiff's reasonable attorney fees and costs for any efforts
23 to collect the payment due under this Consent Judgment.

24 **V. RETENTION OF JURISDICTION**

25 **5.1** This Court shall retain jurisdiction over this matter to enforce, modify, or terminate
26 this Consent Judgment.

27 **VI. MODIFICATION OF CONSENT JUDGMENT**

28 **6.1** This Consent Judgment may be modified only as to the injunctive terms by
(A) written stipulation of the Parties and upon entry by the Court of a modified consent judgment, or

(B) by motion of either Party pursuant to Paragraph 5.1 and upon entry by the Court of a modified consent judgment.

6.2 If Defendant seeks to modify this Consent Judgment under Paragraph 6.1, then Defendant must provide written notice to Plaintiff of its intent (“Notice of Intent”). If Plaintiff seeks to meet and confer regarding the proposed modification in the Notice of Intent, then Plaintiff shall provide written notice of intent to meet and confer to Defendant within thirty (30) days of receiving the Notice of Intent. The Parties shall then meet and confer in good faith in person, via telephone, or via video conference within thirty (30) days of Plaintiff’s written notice of intent to meet and confer. Within thirty (30) days of such a meeting, if Plaintiff disputes the proposed modification, Plaintiff shall provide Defendant a written basis for its opposition. The Parties shall continue to meet and confer for an additional thirty (30) days in an effort to resolve any remaining disputes. Should it become necessary, the Parties may agree in writing to different deadlines for the meet-and-confer period.

6.3 In the event that Defendant initiates or otherwise requests a modification under Paragraph 6.1, and the meet and confer process leads to a joint motion or application for a modification of the Consent Judgment, Defendant shall reimburse Plaintiff its costs and reasonable attorney fees for the time spent in the meet-and-confer process and filing and arguing the motion, unless the modification successfully invalidates the warning provision of this Consent Judgment.

VII. BINDING EFFECT, CLAIMS COVERED, CLAIMS RELEASED

7.1 This Consent Judgment shall have no application to any Covered Product that is distributed or sold exclusively outside the State of California and/or that is not used by California consumers. Nothing in this Consent Judgment is intended to apply to any occupational or environmental exposures arising under Proposition 65, nor shall it apply to any other Defendant products other than the Covered Product.

7.2 Binding Effect. This Consent Judgment is a full, final, and binding resolution between Plaintiff, on behalf of itself and its respective members, owners, principals, officers, directors, shareholders, employees, agents, parent companies, subsidiaries, divisions, successors,

1 assigns, legal representatives and affiliates and on behalf of the public interest, and Defendant and
2 (a) its respective equity owners, officers, directors, shareholders, employees, agents, parent
3 companies, subsidiaries, divisions, affiliates, and related companies, (b) its franchisees, licensees,
4 customers, suppliers, distributors, wholesalers, cooperative members and retailers, and all other
5 upstream and downstream entities in the distribution chain of the Covered Product, including but not
6 limited to iHerb, LLC, and (c) the employees, shareholders, officers, directors, members, managers,
7 equity owners, insurers, attorneys, predecessors, successors, and assigns of any of the entities in
8 subsections (a) and (b), above (the entities identified in subsections (a), (b), and (c) above are
9 collectively referred to as "Released Parties") as to lead in the Covered Product under Proposition
10 65.

11 **7.3** Compliance with the terms of this Consent Judgment shall be deemed to constitute
12 compliance with Proposition 65 by any of the Released Parties regarding alleged exposures to lead
13 in the Covered Product as set forth in the Notice and Complaint.

14 **7.4 Plaintiff Release of Defendant.** Plaintiff, on behalf of itself and its respective
15 members, owners, principals, officers, directors, shareholders, employees, agents, parent companies,
16 subsidiaries, divisions, successors, assigns, legal representatives, and affiliates and on behalf of the
17 public interest fully releases and discharges Released Parties from any and all claims, actions, causes
18 of action, suits, demands, liabilities, damages, penalties, fees, costs, and expenses asserted, or that
19 could have been asserted based on or related to the handling, use, sale, distribution, or consumption
20 of the Covered Product in California, as to any alleged violation of Proposition 65 or its
21 implementing regulations up through the Effective Date, based on a failure to provide a Proposition
22 65 warning on any Covered Product manufactured on or before the Effective Date with respect to
23 lead as set forth in the Notice and Complaint.

24 **7.5** Plaintiff on its own behalf only, and Defendant on its own behalf only, further waive
25 and release any and all claims they, their attorneys, or their representatives may have against each
26 other for all actions or statements made or undertaken in the course of seeking or opposing
27 enforcement of Proposition 65 in connection with the Notice and Complaint up through and including
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1 the Effective Date, provided, however, that nothing in this Section shall affect or limit any Party's
2 right to seek to enforce the terms of the Consent Judgment.

3 **7.6 California Civil Code Section 1542.** It is possible that other claims not known to the
4 Parties, arising out of the facts alleged in the Notice and Complaint, and relating to the Covered
5 Product, will develop or be discovered. Plaintiff on behalf of itself only, and Defendant on behalf of
6 itself only, acknowledge that this Consent Judgment is expressly intended to cover and include all
7 such claims up through and including the Effective Date, including all rights of action therefor.
8 Plaintiff and Defendant acknowledge that the claims released in Section VII above may include
9 unknown claims, and nevertheless waive California Civil Code § 1542 as to any such unknown
10 claims. California *Civil Code* § 1542 reads as follows:

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

16 **VIII. SEVERABILITY**

17 **8.1** In the event that any of the provisions of this Consent Judgment are held by a court
18 of competent jurisdiction to be unenforceable, the validity of the remaining enforceable provisions
19 shall not be adversely affected.

20 **IX. GOVERNING LAW**

21 **9.1** The terms and conditions of this Consent Judgment shall be governed by and
22 construed in accordance with the laws of the State of California.

23 **X. PROVISION OF NOTICE**

24 **10.1** All notices required to be given to either Party to this Consent Judgment by the other
25 shall be in writing and sent to the following agents listed below via first-class mail or electronic mail.
26 Any Party may modify the person/entity or address to whom the notice is to be sent by sending the
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other Party notice by certified mail, return receipt requested. Said change shall take effect on the date the return receipt is signed by the Party receiving the change.

Notice for Plaintiff shall be sent to:

Michael J. Manning
26100 Towne Centre Drive
Foothill Ranch, CA 92610
Tel: Office (949) 200-8757 Fax: (866) 843-8309
P65@manninglawoffice.com

Notice for Defendant shall be sent to:

Matthew Abbot
PROCOPIO, CORY, HARGREAVES & SAVITCH LLP
525 B Street, Suite 2200
San Diego, CA 92130
Office: (619) 238-1900
Fax: (619) 235-0398
matthew.abbot@procopio.com

XI. EXECUTED IN COUNTERPARTS

11.1 This Consent Judgment may be executed in counterparts, which taken together shall be deemed to constitute one document. A facsimile or .PDF signature page shall be construed to be as valid as the original signature.

XII. DRAFTING

12.1 The terms of this Consent Judgment have been reviewed by the respective counsel for each Party prior to its signing, and each Party has had the opportunity to fully discuss the terms and conditions with legal counsel. The Parties agree that, in any subsequent interpretation and construction of this Consent Judgment, no inference, assumption, or presumption shall be drawn, and no provision of this Consent Judgment shall be construed against any Party, based on the fact that one of the Parties and/or one of the Parties' legal counsel prepared and/or drafted all or any portion of the Consent Judgment. It is conclusively presumed that all of the Parties participate equally in the preparation and drafting of this Consent Judgment.

XIII. GOOD FAITH ATTEMPT TO RESOLVE DISPUTES

13.1 If a dispute with respect to either Party's compliance with the terms of this Consent Judgment entered by the Court, the Parties shall meet and confer in person, by telephone, by video

conference, and/or in writing and endeavor to resolve the dispute in an amicable manner. No action or motion may be filed with the Court in the absence of such a good faith attempt to resolve the dispute beforehand.

XIV. ENFORCEMENT

14.1 The Parties may, by motion or order to show cause before the Superior Court of Los Angeles County, enforce the terms and conditions of this Consent Judgment. The terms of this Consent Judgment can only be enforced by a Party. The prevailing party in an enforcement is entitled to reasonable attorneys' fees and costs.

XV. ENTIRE AGREEMENT, AUTHORIZATION

15.1 This Consent Judgment contains the sole and entire agreement and understanding of the Parties with respect to the entire subject matter herein, including any and all prior discussions, negotiations, commitments, and understandings related thereto. No representations, oral or otherwise, express or implied, other than those contained herein have been made by any party. No other agreements, oral or otherwise, unless specifically referred to herein, shall be deemed to exist or to bind any Party.

15.2 Each signatory to this Consent Judgment certifies that he or she is fully authorized by the Party he or she represents to stipulate to this Consent Judgment.

XVI. REQUEST FOR FINDINGS, APPROVAL, AND ENTRY.

16.1 This Consent Judgment has come before the Court upon the request of the Parties. The Parties request the Court to fully review this Consent Judgment and, being fully informed regarding the matters which are the subject of this action, make the findings pursuant to California *Health & Safety Code* § 25249.7(f)(4) and approve this Consent Judgment.

[SIGNATURE PAGE FOLLOWS]

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IT IS SO STIPULATED.

DATED: 7/31/2026, 2026

PLAINTIFF

DocuSigned by:

By: eric fairon
Eric Fairon, CEO
CalSafe Research Center, Inc.

DEFENDANT

DocuSigned by:

By: Jeff Ross
Jeff Ross
Elivate Nutrition, LLC

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that, pursuant to *Health & Safety Code* § 25249.7(f)(4) and *Code of Civil Procedure* § 664.6, judgment is hereby entered.

Dated: _____

JUDGE OF THE SUPERIOR COURT