

## **SETTLEMENT AGREEMENT AND GENERAL RELEASE**

*Ema Bell v. Burlington Coat Factory of Texas, Inc.*

### **1. INTRODUCTION**

**1.1 The Parties.** This Settlement Agreement and General Release (the "Agreement") is entered into by and among Ema Bell ("Bell") (the "Claimant"), on the one hand, and Burlington Coat Factory of Texas, Inc. ("BCFT" or "Burlington" or "Respondent"), on the other hand. The Claimant and Respondent are referred to individually as a "Party" and collectively as the "Parties."

Bell 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.

**1.2 The Dispute.** This Agreement resolves the following dispute between the Parties (the "Dispute"):

Bell Dispute (Proposition 65 – DEHP). Bell alleges that BCFT has exposed individuals to di(2-ethylhexyl) phthalate ("DEHP") from its sales of Cherrilicious kids binders and pencil pouches, # STASET1511A0 (the "DEHP Products") without first providing a clear and reasonable health hazard exposure warning as required pursuant to the Safe Drinking Water and Toxic Enforcement Act of 1986, Health & Safety Code § 25249.6, et seq. ("Proposition 65"). DEHP 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. On October 31, 2025 and January 22, 2026, Bell served Notices of Violation (the "Notices").

**1.3 No Admission.** Burlington denies the material factual and legal allegations contained in the Notices and maintains that, to the best of its knowledge, all products that are or have been sold and distributed in California, including the DEHP Products, have been and are in compliance with all applicable laws. Nothing in this Agreement shall be construed as an admission by Burlington of any fact, finding, issue of law, or violation of law; nor shall compliance with this Agreement constitute or be construed as an admission by Burlington of any fact, finding, conclusion, issue of law, or violation of law, such being specifically denied by Burlington. This Agreement is the product of negotiation and compromise and is accepted by the Parties solely for the purpose of settling, compromising, and resolving the Dispute. This Section shall not diminish or otherwise affect the obligations, responsibilities, and duties of the Parties under this Agreement.

**1.4 Effective Date.** For purposes of this Agreement, the term "Effective Date" shall mean the date this Agreement is last executed by all Parties and the signature pages are exchanged.

### **2. INJUNCTIVE RELIEF: REFORMULATION AND/OR WARNINGS**

**2.1 DEHP Products – Reformulation or Warnings.** Commencing within sixty (60) days after the Effective Date, and continuing thereafter, Cherrilicious kids binders and pencil pouches, # STASET1511A0 (the "DEHP Products") that Burlington directly manufactures, imports, distributes, sells, or offers for sale in California shall either be: (a) Reformulated DEHP Products pursuant to § 2.2, below; or (b) labeled with a clear and reasonable exposure warning pursuant to

§§ 2.3 and 2.4, below. The warning requirement set forth in §§ 2.3 and 2.4 shall not apply to any Reformulated DEHP Product.

**2.2 DEHP Reformulation Standard.** "Reformulated DEHP Products" shall mean DEHP Products that contain concentrations less than or equal to 0.1% (1,000 parts per million (ppm)) of DEHP when analyzed pursuant to U.S. Environmental Protection Agency testing methodologies 3580A and 8270C or other methodology utilized by federal or state government agencies for the purpose of determining the phthalate content in a solid substance.

**2.3 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 § 2.3 and § 2.4 must be provided for all DEHP Products that Burlington manufactures, imports, distributes, sells, or offers for sale in California that are not Reformulated DEHP Products. There shall be no obligation for Burlington 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 §§ 2.3(a) through (d), as applicable:

**(a) DEHP Warning.** For DEHP Products, the "DEHP Warning" shall consist of the statement:

⚠ WARNING: This product can expose you to chemicals including di(2-ethylhexyl) phthalate (DEHP), which is known to the State of California to cause cancer and birth defects or other reproductive harm. For more information go to [www.P65Warnings.ca.gov](http://www.P65Warnings.ca.gov).

**(b) Alternative Warning.** Burlington may, but is not required to, use the following alternative short-form warning ("Alternative Warning") in lieu of the DEHP Warning:

⚠ WARNING: Cancer and Reproductive Harm - [www.P65Warnings.ca.gov](http://www.P65Warnings.ca.gov).

**(c) Warning Format Requirements.** A Warning or Alternative Warning provided pursuant to this § 2.3 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 only if such electronic device or automatic process provides the Warning or Alternative Warning without the purchaser having to seek it out, 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.

**2.4 Internet Sales and Additional Warning Requirements.** A Warning or Alternative Warning provided via an electronic device or automatic process does not apply to internet purchases,

which are subject to the provisions of Section 25602(b). 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 Burlington 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, Burlington 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 third-party internet sellers, provide such sellers with written notice in accordance with Title 27, California Code of Regulations, Section 25600.2. 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, Burlington shall provide the Warning or Alternative Warning in the foreign language in accordance with applicable warning regulations adopted by OEHHA. An Alternative Warning on a Product manufactured and labeled after January 1, 2028 shall be provided in accordance with Title 27, California Code of Regulations, § 25603(b).

**2.5 Compliance with Warning Regulations.** The Parties agree that Burlington shall be deemed to be in compliance with this Agreement with respect to the DEHP Products by either adhering to § 2 of this Agreement or by complying with warning regulations adopted by the State of California's Office of Environmental Health Hazard Assessment ("OEHHA") applicable to the Products and the exposures at issue.

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

In settlement of all Proposition 65 claims referred to in this Agreement, Burlington shall pay civil penalties as set forth in this Section. Civil Penalty payments shall be allocated in accordance with California Health & Safety Code §§ 25249.12(c)(1) and (d), with 75% of each Penalty remitted to OEHHA and the remaining 25% remitted to the respective Claimant. For all amounts due and owing that are not received within the payment times set forth below, Burlington 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 thirty (30) calendar days of the Effective Date, Burlington shall issue one (1) check payable to "Brodsky Smith, LLP Trust Account" in the amount of \$500.00 (total Civil Penalty: \$500.00).

#### **3.2 Payment Procedures for Civil Penalties.**

**(a) Issuance of Payments.** All Civil Penalty payments shall be delivered to Claimants' Counsel at the following address:

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

Bala Cynwyd, PA 19004

**(b) Remittance to OEHHA.** Claimants' Counsel shall be responsible for remitting 75% (\$375.00) of the Civil Penalty to OEHHA (EIN: 68-0284486) (Memo Line "Prop 65 Penalties") within ten (10) business days of receipt of payment from Burlington. Claimants' Counsel shall remit such payment to OEHHA 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**

**Claimants' Counsel shall provide Burlington with proof of payment to OEHHA within five (5) business days of remittance.**

**(c) Tax Documentation.** Burlington agrees to provide completed IRS 1099 forms for its payments, and Bell agrees to provide IRS W-9 forms and Burlington Supplier Information Forms for each payee under this Agreement.

#### **4. REIMBURSEMENT OF FEES AND COSTS**

The Parties acknowledge that the Claimant and 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. The Parties thereafter reached an accord on the compensation due to the Claimant and 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, Burlington shall reimburse Claimant's counsel for fees and costs incurred as a result of investigating and bringing this matter to Burlington's attention, and negotiating a settlement in the public interest.

**4.1** Within thirty (30) calendar days of the Effective Date, Burlington shall issue a check payable to "Brodsky Smith" in the amount of \$5,500.00 for delivery to the address identified in § 3.2(a)(i).

## **5. RELEASE OF ALL CLAIMS**

**5.1 Release by Bell.** This Agreement is a full, final and binding resolution between Bell, acting on her own behalf, and Burlington, of any violation of Proposition 65 that was or could have been asserted by Bell or on behalf of her past and current agents, representatives, attorneys, successors, and/or assigns ("Bell Releasers") for failure to provide warnings for alleged exposures to DEHP from use of the DEHP Products. Bell Releasers hereby release any such claims against Burlington and its parents, subsidiaries, affiliated entities, shareholders, marketplaces, directors, officers, agents, employees, attorneys, successors and assignees, and each entity to whom Burlington directly or indirectly distributes or sells the Products, including but not limited to downstream distributors, entities from whom Burlington purchases products for resale such as upstream suppliers and vendors, wholesalers, customers, retailers, and their respective subsidiaries, affiliates and parents, franchisees, cooperative members and licensees (collectively, the "Bell Releasees"), from all claims for violations of Proposition 65 through 60 days after the Effective Date based on exposure to DEHP from use of the DEHP Products.

In further consideration of the promises and agreements herein contained, and for the payments to be made pursuant to §§ 3 and 4 above, Bell, 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 Bell 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 DEHP from use of the DEHP Products.

**5.2 Burlington's Release of Bell.** Burlington, on behalf of itself, its past and current agents, representatives, attorneys, successors and/or assignees, hereby waives any and all claims against Bell, her attorneys and other representatives, for any and all actions taken or statements made (or those that could have been taken or made) by Bell and/or her attorneys and other representatives, whether in the course of investigating claims or otherwise seeking to enforce her legal rights against Burlington in this matter.

**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 Notices and relating to the Products will develop or be discovered. Bell on behalf of herself only, on the one hand, and Burlington, on the other hand, acknowledge that this Agreement is expressly intended to cover and include all such claims up through 60 days after the Effective Date, including all rights of action therefor. The Parties acknowledge that the claims released herein 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 HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

Bell and Burlington 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 Burlington with this Agreement constitutes compliance by Burlington with Proposition 65 with respect to exposure to DEHP from use of the DEHP Products.

**5.5 Public Benefit.** It is Burlington's understanding that the commitments it has agreed to herein, and actions to be taken by Burlington under this 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 Burlington that to the extent any other private party initiates an action alleging a violation of Proposition 65 with respect to Burlington's failure to provide a warning concerning exposure to DEHP prior to use of the DEHP Products it has manufactured, distributed, sold, or offered 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 Agreement, provided that Burlington is in material compliance with this Agreement.

## **6. CONFIDENTIALITY**

**6.1** The Parties shall not disclose the existence or terms of this Agreement to any third party, except to their respective attorneys, insurers, accountants, and tax advisors, to the extent necessary to conduct Burlington's business, to Burlington's vendors, or as required by law, court order, subpoena, or California Rule of Court 3.770.

## **7. ENFORCEMENT**

In the event that any Party believes another Party to be in material breach of any obligation under this Agreement, such Party shall provide written notice to the breaching Party identifying with specificity the nature of the alleged breach. The Party receiving such notice shall have fourteen (14) calendar days from the date of receipt of such notice to cure the breach. If a cure is not effectuated within such period, the non-breaching Party may pursue any available legal remedy to enforce this Agreement. The prevailing Party in any enforcement action shall be entitled to recover reasonable attorneys' fees and costs.

## **8. SEVERABILITY**

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

## **9. GOVERNING LAW**

The terms of this Agreement shall be governed by the law of the State of California and apply within the State of California.

## **10. NOTICES**

Unless specified herein, all correspondence and notices required to be provided pursuant to this 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 Burlington:**

Matthew S. Kenefick  
Jeffer Mangels & Mitchell LLP  
333 Bush Street  
San Francisco, CA 94104

### **For Bell:**

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

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

## **11. COUNTERPARTS; SIGNATURES**

This 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.

## **12. COMPLIANCE WITH HEALTH & SAFETY CODE § 25249.7(f)**

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

## **13. MODIFICATION**

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

## **14. ENTIRE AGREEMENT**

This 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 Parties or the subject matter hereof. This Agreement

is binding upon and shall inure to the benefit of the Parties and their respective heirs, executors, administrators, successors, and assigns.

**15. NO ADMISSION OF LIABILITY**

Burlington expressly denies any wrongdoing or liability whatsoever as to any claims made by the Claimant. This Agreement shall not be construed as an admission of liability by Burlington. Burlington has entered into this Agreement solely for the purpose of avoiding the uncertainty, expense, and inconvenience of litigation.

**16. AUTHORIZATION**

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

**AGREED TO:**

Date: \_\_\_\_\_

By: \_\_\_\_\_

Ema Bell

**AGREED TO:**

Burlington Coat Factory of Texas, Inc.

7/2/2026

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Signed by:  
*Lindsay R. Goldstein*  
554A882E01F446A

Name: \_\_\_\_\_  
Lindsay R. Goldstein

Title: \_\_\_\_\_  
VP Assistant GC

is binding upon and shall inure to the benefit of the Parties and their respective heirs, executors, administrators, successors, and assigns.

**15. NO ADMISSION OF LIABILITY**

Burlington expressly denies any wrongdoing or liability whatsoever as to any claims made by the Claimant. This Agreement shall not be construed as an admission of liability by Burlington. Burlington has entered into this Agreement solely for the purpose of avoiding the uncertainty, expense, and inconvenience of litigation.

**16. AUTHORIZATION**

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

**AGREED TO:**

Date: 07-06-2026  
By:   
Emma Bell

**AGREED TO:**

Burlington Coat Factory of Texas, Inc.

Date: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_