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7 Attorneys for Plaintiff  
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9 Richard C. Jacobs (State Bar No. 49538)  
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15 Attorneys for Defendant  
16 Beverages & More, Inc.

17  
18 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
19 IN AND FOR THE COUNTY OF SAN FRANCISCO  
20 UNLIMITED CIVIL JURISDICTION  
21

22 RUSSELL BRIMER,

23 Plaintiff,

24 v.

25 BEVERAGES & MORE, INC.; and DOES 1  
26 through 150,

27 Defendants.  
28

Case No. CGC-04-435215

**STIPULATION AND [PROPOSED]  
ORDER RE: CONSENT JUDGMENT**

1       **1. INTRODUCTION**

2           1.1       **Plaintiff and Settling Defendant.** This Consent Judgment is entered into by and  
3 between plaintiff Russell Brimer (hereafter “Brimer” or “Plaintiff”) and Beverages & More, Inc.  
4 (hereafter “Beverages”), with Plaintiff and Beverages collectively referred to as the “Parties” and  
5 Brimer and Beverages each being a “Party.”

6           1.2       **Plaintiff.** Brimer is an individual residing in Alameda County, California, whose  
7 complaint alleges that he seeks to promote awareness of exposures to toxic chemicals and  
8 improve human health by reducing or eliminating hazardous substances contained in consumer  
9 and industrial products.

10          1.3       **General Allegations.** Plaintiff alleges that Beverages has manufactured,  
11 distributed and/or sold in the State of California glass sets, drinking glasses, glass soda bottles,  
12 and other glassware with colored artwork, designs or markings on the exterior surface with  
13 materials that contain lead and/or lead compounds and cadmium that are listed pursuant to the  
14 Safe Drinking Water and Toxic Enforcement Act of 1986, California Health & Safety Code  
15 Sections 25249.5 et seq., also known as Proposition 65, to cause cancer and birth defects and/or  
16 other reproductive harm. Lead and/or lead compounds and cadmium are referred to herein as  
17 “Listed Chemicals.”

18          1.4       **Product Descriptions.** The products that are covered by this Consent Judgment  
19 are defined as follows: glassware products manufactured, sold and/or distributed by Beverages  
20 with colored artwork, designs or markings on the exterior surface, including, by way of example  
21 and without limitation, the glassware listed at Exhibit A. Such products collectively are referred  
22 to herein as the “Products.”

23          1.5       **Notices of Violation.** Beginning on July 30, 2004, Brimer served Beverages and  
24 various public enforcement agencies with documents, entitled “60-Day Notice of Violation”  
25 (“Notice”) that provided Beverages and such public enforcers with notice that alleged that  
26 Beverages was in violation of Health & Safety Code Section 25249.6 for failing to warn  
27 purchasers that certain products that it sold expose users in California to lead and/or lead  
28 compounds and cadmium.

1           1.6     **Complaint.** On October 5, 2004, Brimer, alleging that he was acting in the  
2 interest of the general public in California, filed a complaint (hereafter referred to as the  
3 “Complaint” or the “Action”) in the Superior Court for the City and County of San Francisco  
4 against Beverages and Does 1 through 150, alleging violations of Health & Safety Code  
5 Section 25249.6 based on the alleged exposures to one or more of the Listed Chemicals contained  
6 in certain products sold by Beverages.

7           1.7     **No Admission.** Beverages denies the material factual and legal allegations  
8 contained in Plaintiff’s Notices and Complaint and maintains that all products that it has sold in  
9 California, including the Products, have been and are in compliance with all laws. Nothing in this  
10 Consent Judgment shall be construed as an admission by Beverages of any fact, finding, issue of  
11 law, or violation of law, nor shall compliance with this Agreement constitute or be construed as  
12 an admission by Beverages of any fact, finding, conclusion, issue of law or violation of law.  
13 However, this section shall not diminish or otherwise affect the obligations, responsibilities and  
14 duties of Beverages under this Consent Judgment.

15           1.8     **Consent to Jurisdiction.** For purposes of this Consent Judgment only, the Parties  
16 stipulate that this Court has jurisdiction over the allegations of violations contained in the  
17 Complaint and personal jurisdiction over Beverages as to the acts alleged in the Complaint, that  
18 venue is proper in the County of San Francisco, that this Court has jurisdiction to enter this  
19 Consent Judgment as a full and final settlement and resolution of the allegations contained in the  
20 Complaint and of all claims which were or could have been raised based on the facts alleged  
21 therein or arising therefrom, and to enforce the provisions thereof.

22           1.9     **Effective Date.** For purposes of this Consent Judgment, the “Effective Date” shall  
23 be May 17, 2005.

## 24     **2.     INJUNCTIVE RELIEF: PROPOSITION 65**

### 25           2.1     **WARNINGS AND REFORMULATION OBLIGATIONS**

26                   (a)     **Required Warnings.** No later than July 1, 2005, Beverages shall not sell  
27 or offer for sale in California any Products containing the Listed Chemicals, unless warnings are  
28 given in accordance with one or more provisions in subsection 2.2 below.

1 (b) **Exceptions.** The warning requirements set forth in subsections 2.1(a) and  
2 2.2 below shall not apply to reformulated Products as defined in subsection 2.3 below.

3 2.2 **CLEAR AND REASONABLE WARNINGS**

4 (a) **Product Labeling.** A warning is affixed to the packaging, labeling or  
5 directly to or on a Product by Beverages, its agent, or the manufacturer, importer, wholesaler or  
6 distributor of the Product that states:

7 **WARNING: The materials used as colored decorations on the**  
8 **exterior of this product contain lead and/ or**  
9 **cadmium, chemicals known to the State of**  
10 **California to cause birth defects or other**  
11 **reproductive harm.**

12 **or**

13 **WARNING: The materials used as colored decorations on the**  
14 **exterior of these products contain chemicals**  
15 **known to the State of California to cause birth**  
16 **defects or other reproductive harm.**

17 Warnings issued for Products pursuant to this subsection shall be prominently placed with  
18 such conspicuousness as compared with other words, statements, designs, or devices as to render  
19 it likely to be read and understood by an ordinary individual under customary conditions of use or  
20 purchase. Any changes to the language or format of the warning required by this subsection shall  
21 only be made following: (1) approval of Plaintiff; (2) approval from the California Attorney  
22 General’s Office, provided that written notice of at least fifteen (15) days is given to Plaintiff for  
23 the opportunity to comment; or (3) Court approval.

24 (b) **Point-of-Sale Warnings.** Beverages may execute its warning  
25 obligations, where applicable, through the posting of signs at its retail outlets in the State of  
26 California at which Products are sold, in accordance with the terms specified in  
27 subsections 2.2(b)(i) and 2.2(b)(ii).

28 (i) Point of Sale warnings may be provided through one or more signs  
posted at or near the point of sale or display of the Products that state:

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**WARNING: The materials used as colored decorations on the exterior of this product contain lead and/or cadmium, chemicals known to the State of California to cause birth defects or other reproductive harm.**

**or**

**WARNING: The materials used as colored decorations on the exterior of these products contain lead and/or cadmium, chemicals known to the State of California to cause birth defects or other reproductive harm.**

**or**

**WARNING: The materials used as colored decorations on the exterior of the decorated beverageware products sold in this store contain lead or cadmium, chemicals known to the State of California to cause birth defects or other reproductive harm.<sup>1</sup>**

**or**

**WARNING: The materials used as colored decorations on the exterior of the following products sold in this store contain lead or cadmium, chemicals known to the State of California to cause birth defects or other reproductive harm. *[List the specific products for which a warning is given.]***

If Beverages wishes, in its discretion, to combine the warning required herein with a warning requirements previously imposed with regard to leaded crystal products, the warnings for the Products and such leaded crystal products may provide:

**Proposition 65 WARNING: Consuming foods or beverages that have been kept or served in leaded crystal products, or handling such products, will expose you to lead, a chemical known to the State of California to cause birth defects or other reproductive harm.**

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<sup>1</sup> This formulation of the warning may only be used where the store sells only Products which are not Reformulated Products as defined in subsection 2.3 below.



1 material is fired onto (or otherwise affixed to) the Product, using a sample size of the materials in  
2 question measuring approximately 50-100 mg and a test method of sufficient sensitivity to  
3 establish a limit of quantitation (as distinguished from detection) of less than 600 parts per million  
4 (“ppm”) such Product is a Reformulated Product; or

5 (c) If the Product utilizes paints, decals, or other materials for colored artwork,  
6 designs or markings containing six one-hundredths of one percent (0.06%) lead by weight or less  
7 as measured at Beverages’s option, either before or after the material is fired onto (or otherwise  
8 affixed to) the Product, using a sample size of the materials in question measuring approximately  
9 50-100 mg and a test method of sufficient sensitivity to establish a limit of quantitation (as  
10 distinguished from detection) of less than 600 parts per million (“ppm”), such Product is a  
11 Reformulated Product.

#### 12 **Reformulation Standards Regarding Cadmium**

13 (a) If the colored artwork, designs or markings on the exterior surface of the  
14 Product that do not extend into the Lip and Rim Area produce a test result no higher than 4.0  
15 micrograms (ug) of cadmium using a Ghost Wipe™ test applied on the decorated portions of the  
16 surface of the Product performed as outlined in NIOSH method no. 9100, then such Product is a  
17 reformulated Product; and

18 (b) If the Product utilizes paints, decals, or other materials for colored artwork,  
19 designs or markings containing twenty-four one-hundredths of one percent (0.24%) cadmium by  
20 weight or less as measured at Beverages’s option, either before or after the material is fired onto  
21 (or otherwise affixed to) the Product, using a sample size of the materials in question measuring  
22 approximately 50-100 mg and a test method of sufficient sensitivity to establish a limit of  
23 quantitation (as distinguished from detection) of less than 600 ppm, then such Product is a  
24 Reformulated Product; or

25 (c) If the colored artwork, designs or markings on the exterior surface of the  
26 Product do extent into the Lip and Rim Area, then the colored artwork, designs, or markings  
27 appearing within the Lip and Rim Area must contain eight one-hundredths of one percent (0.08%)  
28 cadmium by weight or less as measured at Beverage’s option, either before or after the material is





1 provided for by law, the absence of Beverages previously marketing or selling Reformulated  
2 Products is not relevant to the establishment of a penalty amount pursuant to section 3.1 above.

3 (c) **Apportionment of Penalties Received.** After Court approval of this  
4 Consent Judgment pursuant to section 6, all penalty monies received shall be apportioned by  
5 Plaintiff in accordance with Health & Safety Code Section 25192, with 75% of these funds  
6 remitted to the State of California's Office of Environmental Health Hazard Assessment and the  
7 remaining 25% of these penalty monies retained by Plaintiff as provided by Health & Safety  
8 Code Section 25249.12(d). Plaintiff shall bear all responsibility for apportioning and paying to  
9 the State of California the appropriate civil penalties paid in accordance with this section.

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

11 4.1 The Parties acknowledge that Plaintiff and his counsel offered to resolve this  
12 dispute without reaching terms on the amount of fees and costs to be reimbursed to them, thereby  
13 leaving this fee issue to be resolved after the material terms of the agreement had been settled.  
14 Beverages then expressed a desire to resolve the fee and cost issue shortly after the other  
15 settlement terms had been finalized. The Parties then attempted to (and did) reach an accord on  
16 the compensation due to Plaintiff and his counsel under the private attorney general doctrine  
17 codified at Code of Civil Procedure Section 1021.5 for all work performed through the Effective  
18 Date of the Agreement. Under the private attorney general doctrine codified at Code of Civil  
19 Procedure Section 1021.5, Beverages shall reimburse Plaintiff and his counsel for fees and costs,  
20 incurred as a result of investigating, bringing this matter to Beverages's attention, litigating and  
21 negotiating a settlement in the public interest. Beverages shall pay Plaintiff and his counsel  
22 \$50,000 for all attorneys' fees, expert and investigation fees, and litigation costs. The payment  
23 shall be made payable to the "Chanler Law Group" and shall be delivered to Plaintiff's counsel  
24 on or before June 1, 2005 at the following address:

25 CHANLER LAW GROUP  
26 Attn: Clifford A. Chanler  
27 71 Elm Street, Suite 8  
28 New Canaan, CT 06840

1           4.2     Except as specifically provided in this Consent Judgment, Beverages shall have no  
2 further obligation with regard to reimbursement of Plaintiff's attorney's fees and costs with  
3 regard to the Products covered in this Action.

4     **5.     RELEASE OF ALL CLAIMS**

5           5.1     **Plaintiff's Release of Beverages.** As to Products, this Consent Judgment is a full,  
6 final and binding resolution between the Plaintiff, acting on behalf of the public interest pursuant  
7 to Health and Safety Code Section 25249.7(d), on the one hand, and Beverages, on the other  
8 hand, of any violation of Proposition 65, of all claims made or which could have been made in the  
9 Notice and/or the Complaint, and of any other statutory, regulatory or common law claim that  
10 could have been asserted against Beverages and/or its affiliates, subsidiaries, divisions,  
11 successors, assigns, and/or customers for failure to provide clear, reasonable, and lawful warnings  
12 of exposure to lead or cadmium contained in or otherwise associated with Products manufactured,  
13 sold or distributed by, for, or on behalf of Beverages. As to Products, compliance with the terms  
14 of this Consent Judgment resolves any issue, now and in the future, concerning compliance by  
15 Beverages and/or its affiliates, subsidiaries, divisions, successors, and assigns with the  
16 requirements of Proposition 65 with respect to the Products.

17           5.2     In further consideration of the promises and agreements herein contained, and for  
18 the payments to be made pursuant to sections 3 and 4, Plaintiff, on behalf of himself, his past and  
19 current agents, representatives, attorneys, successors and/or assignees, and in the interest of the  
20 general public, hereby waives all rights to institute or participate in, directly or indirectly, any  
21 form of legal action and releases all claims, including, without limitation, all actions, causes of  
22 action, in law or in equity, suits, liabilities, demands, obligations, damages, costs, fines, penalties,  
23 losses or expenses (including, but not limited to, investigation fees, expert fees and attorneys'  
24 fees) of any nature whatsoever, whether known or unknown, fixed or contingent (collectively  
25 "Claims"), against Beverages and each of its customers, owners, purchasers, users, parent  
26 companies, corporate affiliates, subsidiaries and their respective officers, directors, attorneys,  
27 representatives, shareholders, agents, and employees (collectively, "Beverages Releasees")  
28 arising under Proposition 65, Business & Professions Code Section 17200 et seq. and Business &

1 Professions Code Section 17500 et seq., related to Beverages's or Beverages Releasees' alleged  
2 failure to warn about exposures to or identification of Listed Chemicals contained in the Products.

3 The Parties further agree and acknowledge that this Consent Judgment is a full, final, and  
4 binding resolution of any violation of Proposition 65, Business & Professions Code  
5 Sections 17200 *et seq.* and Business & Professions Code Sections 17500 et seq., that have been or  
6 could have been asserted in the Complaint against Beverages for its alleged failure to provide  
7 clear and reasonable warnings of exposure to or identification of Listed Chemicals in the  
8 Products.

9 In addition, Plaintiff, on behalf of himself, his attorneys, and their agents, waive all rights  
10 to institute or participate in, directly or indirectly, any form of legal action and releases all Claims  
11 against the Beverages Releasees arising under Proposition 65, Business & Professions Code  
12 Sections 17200 et seq. and Business & Professions Code Sections 17500 et seq., related to each of  
13 the Beverages Releasees' alleged failures to warn about exposures to or identification of Listed  
14 Chemicals contained in the Products and for all actions or statements made by Beverages or its  
15 attorneys or representatives, in the course of responding to alleged violations of Proposition 65,  
16 Business & Professions Code Sections 17200 or Business & Professions Code Sections 17500 by  
17 Beverages. Provided however, Plaintiff shall remain free to institute any form of legal action to  
18 enforce the provisions of this Consent Judgment. It is specifically understood and agreed that the  
19 Parties intend that Beverages's compliance with the terms of this Consent Judgment resolves all  
20 issues and liability, now and in the future (so long as Beverages complies with the terms of the  
21 Consent Judgment) concerning Beverages and the Beverages Releasees' compliance with the  
22 requirements of Proposition 65, Business and Professions Code Sections 17200 *et. seq.* and  
23 Business & Professions Code Sections 17500 *et seq.*, as to the Products.

24 The Parties understand and agree that the release provided by Plaintiff herein shall not  
25 extend upstream to the Product manufacturers or to any distributor or supplier from whom  
26 Beverages purchased any of the Products covered by Exhibit A. It is further understood and  
27 agreed by the Parties (including Beverages' Releasees) that this Consent Judgment does not in  
28 any way involve, and that that the release provided by Plaintiff specifically excludes, any and all

1 products that are marketed by The Coca-Cola Company, or any other entity, under the name  
2 “Coca Cola” or that are manufactured, distributed, bottled, or sold by or on behalf of The Coca-  
3 Cola Company, or any other entity, regardless of whether the products were bottled in the United  
4 States, Mexico or any other country, including but not limited to products such as the “Mexican  
5 Coke” products identified in Plaintiff’s 60-Day Notice of Violation dated January 3, 2005.

6       **5.3 Beverages’ Release of Plaintiff.** Beverages waives all rights to institute any form  
7 of legal action against Plaintiff, or his attorneys or representatives, for all actions taken or  
8 statements made by Plaintiff and his attorneys or representatives, in the course of seeking  
9 enforcement of Proposition 65, Business & Professions Code Sections 17200 et seq. or  
10 Business & Professions Code Sections 17500 et seq. in this Action.

## 11 **6. COURT APPROVAL**

12       This Consent Judgment is not effective until it is approved and entered by the Court and  
13 shall be null and void if, for any reason, it is not approved and entered by the Court within one  
14 year after it has been fully executed by all Parties, in which event any monies that have been  
15 provided to Plaintiff or his counsel pursuant to section 3 and/or section 4 above, shall be refunded  
16 within fifteen (15) days.

## 17 **7. ENFORCEMENT OF CONSENT JUDGMENT**

18       7.1 Before moving to enforce the terms and conditions of Section 2 of this Consent  
19 Judgment against Beverages with respect to an alleged violation occurring at a retail store located  
20 in California, Plaintiff and others must follow the procedures set forth in subsections 7.2 through  
21 7.4.

22       7.2 In the event that Plaintiff and/or their attorneys, agents, assigns, or any other  
23 person acting in the public interest under Health & Safety Code Section 25249.7(d) (hereinafter  
24 “Notifying Person”) identifies one or more retail stores owned and operated by Beverages at  
25 which Products are sold (hereinafter “retail outlet”) for which the warnings for those Products  
26 required under Section 2 of this Consent Judgment are not being given, such Notifying Person  
27 shall notify, in writing, Beverages of such alleged failure to warn (the “Notice of Breach”). The  
28 Notice of Breach shall be sent by first class mail, with proof of service, to the persons identified

1 in Section 11 of this Consent Judgment, and must be served within sixty (60) days of the date the  
2 alleged violation was observed. The Notice of Breach shall identify the date the alleged violation  
3 was observed and the retail outlet in question, and reasonably describe the nature of the alleged  
4 violation with sufficient detail to allow Beverages to determine the basis of the claim being  
5 asserted and the identities of the Products to which those assertions apply.

6 7.3 In the event that the Notifying Person identifies a specific retail outlet, other than  
7 the specific one identified in subsection 7.2 of this Consent judgment, not giving warnings for the  
8 Products as required under Section 2 of this Consent Judgment, such Notifying Person shall serve  
9 Beverages with another Notice of Breach in the manner described in subsection 7.2 and provide  
10 the information required in subsection 7.2.

11 7.4 The Notifying Person shall take no further action against Beverages unless the  
12 Notifying Person discovers, at least thirty (30) days after service of the Notices of Breach served  
13 pursuant to subsections 7.2 and 7.3, another failure to warn for any Products whether or not the  
14 alleged failure to warn is at the same retail outlet(s) identified in the Notices of Breach served  
15 pursuant to subsections 7.2 and 7.3.

16 **8. SEVERABILITY**

17 If, subsequent to court approval of this Consent Judgment, any of the provisions of this  
18 Consent Judgment are held by a court to be unenforceable, the validity of the enforceable  
19 provisions remaining shall not be adversely affected.

20 **9. ATTORNEYS' FEES**

21 In the event that a dispute arises with respect to any provision(s) of this Consent  
22 Judgment, the prevailing party shall, except as otherwise provided herein, be entitled to recover  
23 reasonable and necessary costs and reasonable attorneys' fees incurred from the resolution of  
24 such dispute.

25 **10. GOVERNING LAW**

26 The terms of this Consent Judgment shall be governed by the laws of the State of  
27 California and apply within the State of California. In the event that Proposition 65 is repealed or  
28 is otherwise rendered inapplicable by reason of law generally, or as to the Products specifically,

1 then Beverages shall have no further obligations pursuant to this Consent Judgment with respect  
2 to, and to the extent that, those Products are so affected.

3 **11. NOTICES**

4 All correspondence and notices required to be provided pursuant to this Consent Judgment  
5 shall be in writing and personally delivered or sent by: (1) first-class, registered, certified mail,  
6 return receipt requested or (ii) overnight courier on either Party by the other at the following  
7 addresses. (Either Party, from time to time, may, pursuant to the methods prescribed above,  
8 specify a change of address to which all future notices and other communications shall be sent.)

9 To Beverages:

10 Bannus Hudson, President  
11 Beverages & More, Inc.  
12 1470 Enea Circle, Suite 1600  
13 Concord, CA 94520

13 With a copy to:

14 Richard C. Jacobs, Esq.  
15 Howard Rice Nemerovski Canady Falk & Rabkin  
16 Three Embarcadero Center, 7<sup>th</sup> Floor  
17 San Francisco, CA 94111-4024

17 To Plaintiff:

18 Clifford A. Chanler, Esq.  
19 Chanler Law Group  
20 71 Elm Street, Suite 8  
21 New Canaan, CT 06840

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**12. NO ADMISSIONS**

Nothing in this Consent Judgment shall constitute or be construed as an admission by Beverages of any fact, finding, conclusion, issue of law, or violation of law, nor shall compliance with this Consent Judgment constitute or be construed as an admission by Beverages of any fact, finding, conclusion, issue of issue of law, or violation of law, such being specifically denied by Beverages. Beverages reserves all of its rights and defenses with regard to any claim by any party under Proposition 65 or otherwise. However, this section shall not diminish or otherwise affect Beverages’s obligations, responsibilities and duties under this Consent Judgment.

**13. COUNTERPARTS; FACSIMILE SIGNATURES**

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

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

Plaintiff agrees to comply with the reporting form requirements referenced in Health & Safety Code Section 25249.7(f). Pursuant to regulations promulgated under that section, Plaintiff shall present this Consent Judgment to the California Attorney General’s Office within two (2) days after receiving all of the necessary signatures. A noticed motion to enter the Consent Judgment will then be served on the Attorney General’s Office at least forty-five (45) days prior to the date a hearing is scheduled on such motion in the Superior Court for the City and County of San Francisco unless the Court allows a shorter period of time.

**15. ADDITIONAL POST EXECUTION ACTIVITIES**

The Parties shall mutually employ their best efforts to support the entry of this Agreement as a Consent Judgment and obtain approval of the Consent Judgment by the Court in a timely manner. The Parties acknowledge that, pursuant to Health & Safety Code Section 25249.7, a noticed motion is required to obtain judicial approval of this Consent Judgment. Accordingly, the Parties agree to file a Joint Motion to Approve the Agreement (“Joint Motion”), the first draft of

1 which Brimer's counsel shall prepare, within a reasonable period of time after the Effective Date  
2 (*i.e.*, not to exceed thirty (30) days unless otherwise agreed to by the Parties' counsel based on  
3 unanticipated circumstances). Plaintiff's counsel shall prepare a declaration in support of the  
4 Joint Motion which shall, *inter alia*, set forth support for the fees and costs to be reimbursed  
5 pursuant to Section 4. Beverages shall have no additional responsibility to Plaintiff's counsel  
6 pursuant to Code of Civil Procedure Section 1021.5 or otherwise with regard to reimbursement of  
7 any fees and costs incurred with respect to the preparation and filing of the Joint Motion and its  
8 supporting declaration or with regard to Plaintiff's counsel appearing for a hearing or related  
9 proceedings thereon.

10 **16. MODIFICATION**

11 This Consent Judgment may be modified only by: (1) written agreement of the Parties  
12 and upon entry of a modified Consent Judgment by the Court thereon, or (2) motion of any Party  
13 as provided by law and upon entry of a modified Consent Judgment by the Court. The Attorney  
14 General shall be served with notice of any proposed modification to this Consent Judgment at  
15 least fifteen (15) days in advance of its consideration by the Court.



1 **17. AUTHORIZATION**

2 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 Consent Judgment.

5  
6  
7 **AGREED TO:**

**AGREED TO:**

8 Date: 5-20-05

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

9  
10 By:   
11 Plaintiff Russell Brimer


By: \_\_\_\_\_  
Defendant BEVERAGES & MORE, INC.

12  
13 **APPROVED AS TO FORM:**

**APPROVED AS TO FORM:**

14 Date: 5/20/05

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

15  
16 CHANLER LAW GROUP  
17 By:   
18 Clifford A. Chanler  
19 Attorneys for Plaintiff  
RUSSELL BRIMER

HOWARD RICE NEMEROVSKI CANADY  
FALK & RABKIN  
By: \_\_\_\_\_  
Richard C. Jacobs, Esq.  
Attorney for Defendant  
BEVERAGES & MORE, INC.

20  
21 **IT IS SO ORDERED.**

22  
23 Date: \_\_\_\_\_

\_\_\_\_\_  
JUDGE OF THE SUPERIOR COURT

1 **17. AUTHORIZATION**

2 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 Consent Judgment.

5  
6  
7 **AGREED TO:**

**AGREED TO:**

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

Date: May 18, 2005

9  
10 By: \_\_\_\_\_  
11 Plaintiff Russell Brimer

By: J. N. Hy - CFO  
Defendant BEVERAGES & MORE, INC.

12  
13 **APPROVED AS TO FORM:**

**APPROVED AS TO FORM:**

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

Date: May 24, 2005

15  
16 **CHANLER LAW GROUP**

**HOWARD RICE NEMEROVSKI CANADY  
FALK & RABKIN**

17 By: \_\_\_\_\_  
18 Clifford A. Chanler  
19 Attorneys for Plaintiff  
RUSSELL BRIMER

By: Richard C. Jacobs  
Richard C. Jacobs, Esq.  
Attorney for Defendant  
BEVERAGES & MORE, INC.

20  
21 **IT IS SO ORDERED.**

22  
23 Date: \_\_\_\_\_

\_\_\_\_\_  
JUDGE OF THE SUPERIOR COURT

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Exhibit A

All glass and/or ceramic glasses, mugs, bowls, teapots, and other glassware with colored designs and/or artwork on the exterior, including but not limited to:

- Pub Glass Coastal Fog
- Beer Glass Sierra Nevada
- Beer Glass Orval
- 1800 Party Bucket (with Margarita glass)
- NEHI Peach Longnecks Soda bottle