

1 Clifford A. Chanler State Bar No. 135534
2 Andrew L. Packard, State Bar No. 168690
3 Hernan G. Sanhueza State Bar No. 173094
4 CHANLER & ASSOCIATES
5 1700 Montgomery Street, Suite 110
6 San Francisco, CA 94111
7 TEL. (415) 391-1122
8 FAX. (415) 391-1157

9 Attorneys for Plaintiff
10 AS YOU SOW

11
12 SUPERIOR COURT OF THE STATE OF CALIFORNIA
13
14 IN AND FOR THE CITY AND COUNTY OF SAN FRANCISCO
15

16 AS YOU SOW, a non-profit
17 organization,

18 Plaintiff,

19 v.

20 HURST GRAPHICS, INC.
21 and DOES 1 through 1000,
22 Defendants

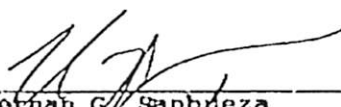
23 No. 970232

24 STIPULATION FOR
25 ENTRY OF JUDGMENT

26
27 IT IS HEREBY STIPULATED, by and between plaintiff As
28 You Sow and defendant Hurst Graphics, Inc., through their
29 respective representatives, that judgment in the above-
30 entitled action be entered in accordance with the terms of the
31 settlement agreement between the parties, which is attached
32 hereto.

33 Dated: September 27, 1995

34 by:

35 
36 Hernan G. Sanhueza
37 Attorney for Plaintiff
38 AS YOU SOW

39 Dated: September 21, 1995

40 by:

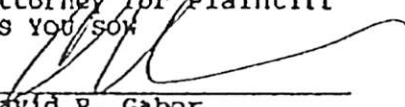
41 
42 David R. Gabor
43 Attorney For Defendant
44 HURST GRAPHICS, INC.

Exhibit A

SETTLEMENT AGREEMENT

On September 5, 1995, As You Sow ("AYS") and Hurst Graphics, Inc. ("Hurst"), desiring to settle this action, agreed to the following terms and conditions:

WHEREAS:

A. AYS is a not-for-profit public interest foundation dedicated to promoting consumer awareness, protecting the environment and improving human health; and

B. Hurst is a company that currently manufactures and distributes lithographic printing and pressroom products, including, but not limited to releases, blanket and roller washes, rejuvenators and overnight sprays, some of which contain toluene, methylene chloride, trichloroethylene, sodium dichromate or a combination of these chemicals; and

C. On January 1, 1991, toluene was officially listed by the State of California as a chemical known to cause birth defects or other reproductive harm, pursuant to Health & Safety Code §25249.8; and

D. On April 1, 1988, methylene chloride was officially listed by the State of California as a chemical known to cause cancer, pursuant to Health & Safety Code §25249.8; and

E. On April 1, 1988, trichloroethylene was officially listed by the State of California as a chemical known to cause cancer, pursuant to Health & Safety Code §25249.8; and

F. On February 27, 1987, sodium dichromate (a hexavalent compound), was officially listed by the State of California as a chemical known to cause cancer, pursuant to Health & Safety Code §25249.8; and

G. A list of the products which contain toluene, methylene chloride, trichloroethylene, sodium dichromate, or a combination of these chemicals which are covered by this Agreement is provided in Exhibit "A" (the "Products"); and

H. March 9, 1995, AYS served Hurst with a document entitled "60-Day Notice" which provided Hurst with notice that it was in violation of Health & Safety Code §25249.6 for failing to warn purchasers that certain products it sells in California expose users to certain Proposition 65-listed chemicals; and

I. On June 6, 1995, AYS served Hurst with a summons and complaint in the case of As You Sow v. Hurst Graphics, Inc., (Case No. 970232) (the "Complaint") which is currently pending in the San Francisco County Superior Court; and

J. On July 20, 1995, Hurst filed a demurrer challenging the material factual and legal allegations contained in the "60-day Notice" and the Complaint.

K. Nothing in this Agreement shall be construed as an admission by Hurst 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 Hurst of any fact, finding, conclusion, issue of law, or violation of law. However, this paragraph shall not diminish or otherwise affect the obligations, responsibilities and duties of Hurst under this Agreement.

In order to avoid costly and time consuming litigation between AYS and Hurst that has been brought or could have been brought for exposures to Proposition 65-listed chemicals from the Products, THE PARTIES AGREE AS FOLLOWS:

1. Warning Statements. Beginning January 1, 1996 Hurst agrees that it shall not ship (or cause to be shipped) for sale or use in the State of California, any of the Products, unless such products contain one of the following warning statements on its label:

- (a) For Products containing a Proposition 65 chemical listed by the State of California as known to cause birth defects or other reproductive harm:

"WARNING: This product contains a chemical known to the State of California to cause birth defects or other reproductive harm."

- (b) For products containing two or more Proposition 65 chemicals listed by the State of California as known to cause birth defects or other reproductive harm:

"WARNING: This product contains chemicals known to the State of California to cause birth defects or other reproductive harm."

- (c) For products containing a Proposition 65 chemical listed by the State of California as known to cause cancer:

"WARNING: This product contains a chemical known to the State of California to cause cancer."

- (d) For products containing two or more Proposition 65 chemicals listed by the State of California as known to cause cancer:

"WARNING: This product contains chemicals known to the State of California to cause cancer."

- (e) For products containing both a Proposition 65 chemical listed by the State of California as known to cause cancer and a Proposition 65 chemical listed by the State of California as known to cause birth defects or other reproductive harm:

"WARNING: This product contains chemicals known to the State of California to cause cancer and birth defects or other reproductive harm."

This warning statement shall be prominent and 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.

2. Distributor Letter. In an effort to ensure that consumers receive Proposition 65 warnings for Products that have already been shipped for sale in California, Hurst agrees that within ten (10) days of the mutual execution of this Agreement, it shall provide to its California Distributors the letter attached hereto as Exhibit "B" ("Distributor Letter").

3. Distributor Stickers. Within ten (10) days of the mutual execution of this Agreement, Hurst agrees to provide to each of its California Distributors, along with the Distributor Letter referenced in Paragraph 2, above, forty (40) Warning Stickers. These Warning Stickers, an exemplar of which is attached hereto as Exhibit "C", shall bear the appropriate warning language statement contained in Paragraph 1, above.

4. Restitution. As a restitutionary measure, Hurst agrees to contribute \$1,500 to "Citizens for a Better Environment" ("CBE") a non-profit organization dedicated to consumer education regarding pollution, and to sustainable urban growth, and \$1,500

to AYS' Proposition 65 Investigation Fund to support the research of, and investigation into, California citizens, exposure to chemicals listed pursuant to Proposition 65. This payment is being made pursuant to Business & Professions Code §17203.

5. Payment under Health & Safety Code § 25249.7(b). Hurst further agrees to pay \$3,000 pursuant to Health & Safety Code §25249.7(b). Such monies shall be apportioned by AYS in accordance with Health & Safety Code §25192, with 75% of this amount being transferred by AYS to the California Attorney General's Office.

6. Fees and Costs. In an effort to defray AYS' investigation fees and costs, expert fees and costs, reasonable attorneys' fees, and any other costs incurred as a result of investigating and bringing this matter to Hurst's attention and negotiating a settlement in the public interest, Hurst shall pay AYS the reasonable sum of \$9,500. Payment of the above sums (totalling \$15,500) shall be made as follows:

September __, 1995	\$3,000 (upon execution of this Agreement)
October 1, 1995	\$3,000
November 1, 1995	\$3,000
December 1, 1995	\$3,000
January 5, 1995	\$3,500

All payments shall be made directly to counsel for AYS, who shall then have the responsibility of forwarding money to the appropriate entity or account as itemized in paragraphs 4, 5 and 6, above.

7. AYS Release. Except with respect to the obligations, representations and warranties set forth in this Agreement, AYS, on its own behalf and on behalf of each of its partners, partnerships, employees, agents, representatives, insurers, attorneys, predecessors, successors, assignors and assignees, and all persons and entities acting or claiming by, through, under or in concert with it or any of them, hereby irrevocably releases and forever discharges Hurst along with Hurst's distributors, retailers and customers which sell Hurst's Products and each of its distributors, retailers and customers' predecessors, successors, subsidiaries, divisions, affiliated companies, parent companies, holding companies, partners, partnerships, officers, directors, employees, agents, representatives, insurers, attorneys, assignors and assignees, and all persons and entities acting or claiming by, through, under or in concert with it or any of them, of and from any and all manner of action or actions, cause or causes of action, in law or in equity, suits, liabilities, claims, demand, damages, losses, costs or expenses (including attorneys' fees), of any nature whatsoever, whether known or unknown, fixed or contingent, which AYS has or may in the future have against Hurst, whether under Proposition 65, California Business and Professions Code §§ 17200 et seq., or any

other statute or common law claim based on Hurst's alleged failure to warn consumers about exposure to toluene, methylene chloride, trichloroethylene, or sodium dichromate from any of the Products identified in Exhibit "A".

8. AYS, (for itself, its members, officers, directors, attorneys, representatives, agents and affiliates) by this Agreement, waives all rights to institute an action against Hurst, its agents, officers, directors, employees, its distributors, retailers or customers which sell Hurst's Products, whether under Proposition 65, Business & Professions Code §§ 17200 et seq., or any other statute or common law claim based on Hurst's alleged failure to warn consumers about exposure to toluene, methylene chloride, trichloroethylene, or sodium dichromate from any of the Products identified in Exhibit "A".

9. Hurst Release. Except with respect to the obligations, representations and warranties set forth in this Agreement, Hurst, on its own behalf and on behalf of each of its partners, partnerships, employees, agents, representatives, insurers, attorneys, predecessors, successors, assignors and assignees, and all persons and entities acting or claiming by, through, under or in concert with it or any of them, hereby irrevocably releases and forever discharges AYS and AYS's predecessors, successors, subsidiaries, divisions, affiliated companies, parent companies, holding companies, partners, partnerships, officers, directors, employees, agents, representatives, insurers, attorneys, assignors and assignees, and all persons and entities acting or claiming by, through, under or in concert with it or any of them, of and from any and all manner of action or actions, cause or causes of action, in law or in equity, suits, liabilities, claims, demand, damages, losses, costs or expenses (including attorneys' fees), of any nature whatsoever, whether known or unknown, fixed or contingent, which Hurst has or may in the future have against AYS, whether under Proposition 65, California Business and Professions Code §§ 17200 et seq., or any other statute or common law claim based on Hurst's alleged failure to warn consumers about exposure to toluene, methylene chloride, trichloroethylene, or sodium dichromate from any of the Products identified in Exhibit "A."

10. Hurst, (for itself, its members, officers, directors, attorneys, representatives, agents and affiliates) by this Agreement, waives all rights to institute legal action against AYS, its members, officers, directors, attorneys and representatives (the "AYS Releasees") based on all actions taken by the AYS Releasees in the course of seeking enforcement of Proposition 65 against Hurst.

11. Stipulated Judgment. The parties shall file a stipulated judgment to be approved pursuant to CCP §664.6 by the San Francisco Superior Court in accordance with the terms of this Agreement. If, for any reason, the stipulated judgment is not

approved by the Court, then the Agreement shall be deemed null and void.

12. Revised "60-day notice". AYS shall file a revised "60-day notice" listing all Prop. 65 Chemicals and Products listed in this Agreement within ten (10) days of the mutual execution of the Agreement.

13. Severability. In the event that any of the provisions of this Agreement are held by a court to be unenforceable, the validity of the enforceable provisions shall not be adversely affected.

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

15. Disputes Under This Agreement. In the event that a dispute arises with respect to any provision(s) of this Agreement, the prevailing party shall be entitled to recover costs and reasonable attorneys' fees.

16. Integrated Agreement. This is an integrated Agreement. All agreements, covenants, representations and warranties, express or implied, oral or written, of AYS or Hurst relating to the subject matter of the Agreement, are contained herein. No other agreements, covenants, representations or warranties, express or implied, oral or written, have been made by AYS or Hurst concerning the subject matter herein. All prior contemporaneous drafts, negotiations, representations, covenants, warranties and conversations concerning the subject matter of this Agreement other than those stated herein are merged into this Agreement and shall not be used to interpret the language and/or meaning of this Agreement.

17. Correspondence. All correspondence to AYS shall be mailed to:

Andrew L. Packard, Esq.
Chanler & Associates
1700 Montgomery Street, Suite 110
San Francisco, CA 94111

All correspondence to Hurst shall be mailed to:

Joanne Hirsh, President
Hurst Graphics, Inc.
2500 San Fernando Road
Los Angeles, CA 90065

18. Authority To Execute. The undersigned are authorized to execute this Agreement on behalf of their respective parties and have read, understood and agree to all of the terms and conditions of this Agreement.

19. Counterparts. This Agreement may be executed in two counterparts, and all counterparts shall be considered together as one agreement.

AGREED TO:

By: _____
As You Sow

Dated: _____

AGREED TO:

By: *Harold V. Hurst*
Hurst Graphics, Inc.

Dated: 9-13-95

19. Counterparts. This Agreement may be executed in two counterparts, and all counterparts shall be considered together as one agreement.

AGREED TO:

By: Conrad Wada

As You Sow

Dated: 10/10/95

AGREED TO:

By: _____

Hurst Graphics, Inc.

Dated: _____

EXHIBIT A

1. Product 54
2. Product 90
3. Product 110
4. Product 119
5. Product 135
6. Product 156
7. Product 210
8. Product 320

EXHIBIT C

{Exemplar of Hurst's Warning Sticker}

EXHIBIT B

[Hurst Letterhead]

IMPORTANT LEGAL NOTICE

Date:
Attention: Hurst Graphics Distributors
Subject: California Proposition 65 warnings for Products
Containing Toluene, Methylene Chloride,
Trichloroethylene, or Sodium Dichromate

This letter serves to advise you that the Hurst Graphics Inc. products listed in Attachment A to this letter contain TOLUENE, a chemical known to the State of California to cause birth defects or other reproductive harm, and/or METHYLENE CHLORIDE, TRICHLOROETHYLENE, or SODIUM DICHROMATE, chemicals known to the State of California to cause cancer. Pursuant to the Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65"), the purchasers of the products listed on Attachment A must be given clear and reasonable warning of toluene's reproductive harm, and of methylene chloride's, trichloroethylenes, and sodium dichromate's carcinogenicity.

Hurst has begun labelling the products with proper warnings, however some of these products may have entered the chain of distribution prior to Hurst's label change. In order to provide the required warnings for any such products, you must take certain actions to ensure that purchasers of those products receive Proposition 65 warnings.

You will be in compliance with Proposition 65 for the products listed on Attachment A if you attach one of the enclosed Warning Stickers to all of these products not bearing a Proposition 65 warning.

Failure to attach these Warning Stickers to a product lacking the above warning may result in a violation of Proposition 65 and may subject you to legal action by various environmental groups or the California Attorney General, wherein monetary penalties of up to \$2,500 per violation could be sought.

Should you have any questions or concerns about this matter please do not hesitate to contact me at 1-800-732-2004 by phone, or by mail at the above address. In addition, we will be glad to supply additional warning stickers if requested.

Sincerely,