

COPY

SETTLEMENT AGREEMENT

This Settlement Agreement (this "Agreement") is entered into between Michael DiPirro, a California citizen, and Newell Rubbermaid Inc. and Newell Window Furnishings, Inc., including Kirsch Division (Delaware corporations), as of August 1, 2000 (the "Effective Date").

WHEREAS:

Michael DiPirro is an individual residing in San Francisco who seeks to promote awareness of exposures to toxic chemicals and improve human health by reducing or eliminating hazardous substances contained in consumer and industrial products;

Newell Rubbermaid Inc. and/or, its subsidiary, Newell Window Furnishings, Inc., including Kirsch Division ("Newell/Kirsch") distribute, market, and/or sell, and may continue to distribute, market, and/or sell certain lead weights used for curtains, draperies and other fabrics or furnishings, and similar weights (the "Products") in the State of California. The Products contain, and/or otherwise create an exposure to, chemicals, including lead, listed pursuant to Proposition 65, California Health & Safety Code §§ 25249.5 *et seq.* ("Listed Chemicals");

On or about February 25, 2000, Michael DiPirro, pursuant to Health & Safety Code § 25249.7(d) and 22 CCR § 12903, served Newell/Kirsch and all of the requisite public enforcement agencies with a document entitled "60-Day Notice." The 60-Day Notice provided Newell/Kirsch and the recipient public enforcers with notice that Newell/Kirsch was allegedly in violation of Health & Safety Code §25249.6 for failing to warn purchasers and others that the Products expose individuals in California to Listed Chemicals.

On or about July 25, 2000, Michael DiPirro filed a complaint entitled *Michael DiPirro v. Newell Rubbermaid Inc., et al.* in the San Francisco Superior Court (Case No. 313846), naming Newell/Kirsch as defendant and alleging violations of Business & Professions Code §§17200 *et seq.* and Health & Safety Code §25249.6 on behalf of individuals in California who may have been exposed to Listed Chemicals contained in or otherwise associated with use of Products (the "Complaint").

Newell/Kirsch denies all material allegations contained in the Complaint and avers that it has numerous affirmative defenses; however, to avoid the cost and expense of formal litigation of their respective positions, the parties have engaged in an informal discovery process, whereby they exchanged information concerning the Products and their sales in California. After assessing their respective positions, the parties engaged in arms length settlement discussions to attempt to resolve the claims raised in the Complaint without further litigation.

WHEREUPON, THE PARTIES NOW AGREE AS FOLLOWS:

Product Labeling: Beginning thirty (30) days after the Effective Date, Newell/Kirsch shall initiate or otherwise arrange for revisions or retrofits to current labels for the Products to include one of the Proposition 65 warning statements appearing below ("Revised Labels"). Newell/Kirsch shall use reasonable efforts to ensure that all Products in its possession intended for shipment in California are packaged using Revised Labels as quickly as possible; however, as of October 1, 2000, Newell/Kirsch shall not ship (or cause to be shipped on its behalf) any of the Products for sale or use in the State of California unless each such Product contains one of the following warnings on its consumer packaging (or for Products which are not sold in consumer packaging aside from their immediate container, is otherwise included in their labeling):

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

-- or --

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

The warning statement included in the Revised Labels shall appear in a type size and style that is legible and conspicuous to an ordinary individual (*e.g.*, having a relative size equivalent to other health and safety information appearing on the Product’s label).

MSDS Revisions. Newell/Kirsch agrees to revise Material Safety Data Sheets (“MSDSs”) pertaining to the Products (to the extent they now exist if at all) to ensure that such MSDSs contain a warning that is consistent in wording with one of the on-label warnings required under the “Product Labeling” section of this Agreement.

Newell/Kirsch further agrees that, where such revisions are applicable, it will include the required warning in the “Health Hazard” section of such MSDSs. Newell/Kirsch agrees to start revising such MSDSs as soon as commercially reasonable and to distribute such revised MSDSs in the normal course of business by no later than October 1, 2000.

Civil Penalty: Pursuant to Health & Safety Code §25249.7(b), Newell/Kirsch shall pay, within fifteen (15) calendar days of the Effective Date of this Agreement, a civil penalty of \$4,000. Such monies shall be held in trust by counsel for Michael DiPirro and will not be released until counsel for Newell/Kirsch is in receipt of an approved stipulated judgment incorporating the terms of this Agreement from the San Francisco Superior Court. Penalty monies shall be mailed to and apportioned by counsel to Michael DiPirro

in accordance with Health & Safety Code §25192, with 75% of these funds remitted to the State of California. Payment by Newell/Kirsch shall be made payable to “Chanler Law Group, in trust for Michael DiPirro.” In the event the court rejects this settlement, the amount paid by Newell/Kirsch shall be returned within five (5) days of receipt of notice of the court’s rejection.

Reimbursement of Fees and Costs. Within fifteen (15) days of the Effective Date of this Agreement, Newell/Kirsch shall pay \$10,000 for pre-notice investigation fees, attorneys’ fees, and other costs incurred by Michael DiPirro and Michael DiPirro’s legal counsel in this matter. Such monies shall be held in trust by counsel for Michael DiPirro and will not be released until counsel for Newell/Kirsch is in receipt of an approved stipulated judgment incorporating the terms of this Agreement from the San Francisco Superior Court. Payment by Newell/Kirsch shall be made payable to “Chanler Law Group.” In the event the court rejects this settlement, the amount paid by Newell/Kirsch shall be returned within five (5) days of receipt of notice of the court’s rejection.

The parties acknowledge that Michael DiPirro offered to resolve the dispute without reaching terms on the amount of fees and costs to be reimbursed, thereby leaving this open issue to be resolved in further proceedings after the matter settled. Because of the defense costs involved with resolving it at a separate stage of the proceedings, Newell/Kirsch then expressed a desire to resolve the issue of reimbursement of Michael DiPirro’s fees and costs concurrently with other settlement terms, so the parties reached an accord on the compensation to be paid to Michael DiPirro and his counsel under the private attorney general doctrine codified in C.C.P. § 1021.5.

Plaintiffs’ Release. Michael DiPirro, by this Agreement, on behalf of himself, his agents and assignees, and acting in the public interest pursuant to Health and Safety Code §25249.7(d) with respect to all matters identified in the Notice Letters and on behalf of

the general public pursuant to Business and Professions Code §17204, waives all rights to institute any form of legal action (and releases all claims) against Newell/Kirsch, their affiliates and divisions, distributors, retailers, customers, successors, and assigns, whether under Proposition 65 or Business & Profession Code §§17200 *et seq.*, related to its alleged failure to warn about exposure to Listed Chemicals contained in, or otherwise associated with the use of, any of the Products. This release of liability includes, but is not limited to, a release of all claims for which Michael DiPirro has previously issued a 60-day Notice to Hancock Fabrics, Inc. with regard to Products acquired from Newell/Kirsch or its distributors.

Defendants' Release. Newell/Kirsch, by this Agreement, waive all rights to institute any form of legal action against Michael DiPirro and his attorneys or representatives, for all actions or statements made by Michael DiPirro, and his attorneys or representatives, in the course of seeking enforcement of Proposition 65 or Business & Profession Code §§17200 *et seq.* against Newell/Kirsch in this action.

Warranties and Representations. The parties make the following representations and warranties:

Newell/Kirsch represents and warrants as follows:

Each of the Products contains or is associated with use conditions resulting in exposure to one or more Listed Chemicals, and that Newell/Kirsch has no knowledge that Newell/Kirsch has any analytical, risk assessment, or other data indicating that an exposure to or associated with the Products will have “no observable effect,” as each such standard is applicable and as each is defined under Health & Safety Code §25249.10(c).

In the event that Newell/Kirsch obtains analytical, risk assessment, or other data that shows that an exposure to or associated with the Products will have “no

observable effect,” as each such standard is applicable and as each is defined under Health & Safety Code §25249.10(c), Newell/Kirsch may elect to provide Michael DiPirro with 90 days prior written notice of its intent to limit or eliminate the warning provisions under this Agreement based on this information pursuant to this paragraph and, in such instance, shall provide Michael DiPirro with all such supporting data. Within thirty (30) days of receipt of Newell/Kirsch’s exposure data, Michael DiPirro may elect to provide Newell/Kirsch with written notice of his desire to challenge the data (in the event that he chooses to make such a challenge), and, in this event, Michael DiPirro and Newell/Kirsch shall negotiate in good faith to attempt to reach a settlement. In the event that no settlement is reached within thirty (30) days of mailing by Michael DiPirro of such notice of such challenge, Michael DiPirro and Newell/Kirsch agree to submit such challenge to the San Francisco Superior Court for determination, pursuant to the Court’s continuing jurisdiction of this matter under C.C.P. §664.6 and this Agreement. The prevailing party shall be entitled to reasonable attorneys’ fees and costs associated with such a determination. If Michael DiPirro does not challenge Newell/Kirsch’s notice or the Court determines that no warning is required for a particular Product or Products, Newell/Kirsch shall no longer be required to provide the warnings described in this Agreement for those Products.

Newell/Kirsch understands that the sales data provided to counsel for Michael DiPirro by Newell/Kirsch was a material factor upon which Michael DiPirro has relied to determine the amount of penalties and restitution in this Agreement. To the best of Newell/Kirsch’s knowledge, the sales data provided is true and accurate.

Newell/Kirsch acknowledges that, in the event Michael DiPirro finds within the next twelve months that the sales data was materially inaccurate, all other parts of this Agreement notwithstanding, Michael DiPirro will have the right to rescind this Agreement and re-institute an enforcement action against Newell/Kirsch. In such a case,

all applicable statutes of limitations shall be deemed tolled for the period between the date Michael DiPirro filed the instant action and the date Michael DiPirro notifies Newell/Kirsch that it is rescinding this Agreement pursuant to this subpart.

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.

Compliance With Reporting Requirements. The parties agree to comply with the reporting form requirements referenced in Health & Safety Code Section 29249.7(f). If, as of the Effective Date, an approved form is available for use, such form shall be promptly completed and then sent to the California Attorney General's office, along with this Agreement, by certified mail, return receipt requested. If, on the other hand, an approved form is not available for use, Newell/Kirsch shall promptly send this Agreement to the California Attorney General's office by certified mail, return receipt requested, along with a cover letter stating that: "The attached Agreement is provided to you pursuant to Health & Safety Code Section 25249.7(f)." Exhibit A contains a statement by counsel that, consistent with this paragraph, the Agreement is being submitted concurrently to the California Attorney General's office with its presentation to the San Francisco Superior Court.

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.

Attorneys' Fees. 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.

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

Notices. All correspondence to Michael DiPirro shall be mailed to:

Clifford A. Chanler
Chanler Law Group
Magnolia Lane (off Huckleberry Hill)
New Canaan, CT 06840-3801

All correspondence to Newell/Kirsch shall be mailed to:

Robert L. Falk, Esq.
Morrison & Foerster
425 Market Street
San Francisco, CA 94105-2482

No Admissions. Nothing in this Agreement shall constitute or be construed as an admission by Newell/Kirsch or any fact, finding, issue of law, or violation of law, nor shall compliance with this Agreement constitute or be construed as an admission by Newell/Kirsch of any fact, finding, conclusion, issue of law, or violation of law. Newell/Kirsch reserves all of its rights and defenses with regard to any future claim by any party under Proposition 65 or otherwise. However, this section shall not diminish or otherwise affect the obligation, responsibilities, and duties of Newell/Kirsch under this Agreement.

Counterparts/Facsimiles. This Agreement may be executed in counterparts and/or by means of facsimile, each of which shall be deemed an original, and all of which, when taken together, shall constitute one and the same document.

Authorization. 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.

AGREED TO:

DATE: _____

Michael DiPirro
PLAINTIFF

AGREED TO:

DATE: July 31, 2000

NRW

Newell Rubbermaid Inc. and Newell
Window Furnishings, Inc., including its
Kirsch Division
DEFENDANTS

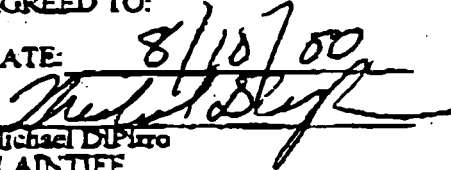
Authorization. The undersigned are authorized to execute this Agreement on behalf of their respective parties and have read, understood and agree to all of the terms and conditions of this Agreement.

AGREED TO:

DATE:

8/10/00

Michael DiPiro
PLAINTIFF



AGREED TO:

DATE:

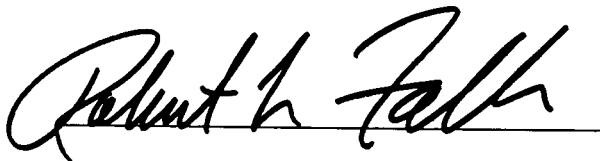
Newell Rubbermaid Inc. and Newell
Window Furnishings, Inc., including its
Kirsch Division
DEFENDANTS

Exhibit A

I, Robert L. Falk, as counsel for a party herein, hereby state that this Agreement was sent to the California Attorney General's office by certified mail, return receipt requested on August 14, 2000.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed in San Francisco, California, this 14 day of August, 2000.

A handwritten signature in black ink, reading "Robert L. Falk", written over a horizontal line.