

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is entered into by and between Michael DiPirro, a California citizen, and Panasonic Factory Automation, an unincorporated division of Matsushita Electric Corporation of America, a Delaware corporation (“Panasonic”), as of September 20, 1999 (the “Effective Date”). The parties agree to the following terms and conditions:

WHEREAS:

A. 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 exposures to hazardous substances produced by consumer and industrial products;

B. Panasonic Factory Automation is a company that manufactures and distributes products, the customary use and application of which is alleged by DiPirro to produce fumes or gases which contain chemicals listed pursuant to Proposition 65 (California Health & Safety Code Sections 25249.5 *et seq.*) (“listed chemicals”);

C. The products whose customary use and application produce fumes or gases which are alleged by DiPirro to contain one or more of the listed chemicals and which are covered by this Agreement are set forth in Exhibit A (the “Products”). The Products have been manufactured and distributed by Panasonic for use in California since at least April 29, 1995; and

D. On April 29, 1999, DiPirro first served Panasonic and all of the requisite public enforcement agencies with a document entitled “60-Day Notice” which provided such public enforcers with notice that Panasonic was allegedly in violation of Health & Safety Code section 25249.6 for failing to warn purchasers that the use of certain products it sells in California expose users to Proposition 65-listed chemicals; and

E. On July 14, 1999, Michael DiPirro filed a complaint entitled Michael DiPirro v. Panasonic Factory Automation (No. 304877) in the San Francisco Superior Court, naming Panasonic as a defendant and alleging violations of Business & Professions Code section 17200 and Health & Safety Code section 25249.6 on behalf of individuals in California who allegedly have been exposed to listed chemicals from the customary use and application of the Products; and

F. Panasonic at all times has denied the material factual and legal allegations contained in the 60-Day Notice and the Complaint. Nothing in this agreement shall be construed as an admission by Panasonic 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 Panasonic 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 Panasonic under this Agreement.

NOW THEREFORE, DiPIRRO AND PANASONIC AGREE, AS FOLLOWS:

1. Product Warnings. Beginning on the Effective Date herein, Panasonic shall initiate efforts to revise its current product or packaging labels for the Products consistent with this agreement ("Revised Labels"). Panasonic agrees to use reasonable efforts to ensure that all Products in its possession intended for distribution for sale in California are packaged or sold using Revised Labels as soon as commercially feasible. Following 60 days from the Effective Date, Panasonic agrees that it shall not distribute or sell any of the Products for sale or use in the State of California unless each Product is accompanied by a Revised Label on or affixed to the Product (or its packaging) with the following statement:

For Products the use of which produces fumes or gases that contain any combination of chemicals listed by the State of California as known to cause both cancer and birth defects (or other reproductive harm):

“WARNING: This product, when used for welding or cutting, produces fumes or gases which contain chemicals known to the State of California to cause birth defects and, in some cases, cancer. (California Health & Safety Code Section 25249.5 et seq.)”

The warning statement shall be prominent and displayed at the point of sale 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. Payment Pursuant To Health & Safety Code Section 25249.7(b). Pursuant to Health & Safety Code section 25249.7(b), Panasonic shall pay a civil penalty of \$3,000.00. The payment shall be paid within ten (10) calendar days after the Effective Date of the Agreement and be made payable to “Kapsack & Bair, LLP In Trust For Michael DiPirro”. Penalty monies shall be apportioned by DiPirro in accordance with Health & Safety Code section 25192, with 75% of these funds remitted to the State of California Department of Toxic Substances.

3. Reimbursement Of Fees And Costs. Within ten (10) calendar days of the Effective Date of the Agreement, Panasonic shall reimburse DiPirro for his investigation, expert and attorneys’ fees and costs incurred as a result of investigating, bringing this matter to Panasonic’s attention, litigating and negotiating a settlement in the public interest. Panasonic shall pay: \$9,000 for pre-notice investigation fees; \$1,240 for expert, investigation and litigation costs; and \$6,760 in attorneys’ and post-notice investigation fees. Payment should be made payable to “Kapsack & Bair, LLP”.

4. DiPirro's Release. DiPirro, by this agreement, on behalf of himself, his agents, representatives, attorneys, assigns and the citizens of the State of California, waives all rights to institute and participate in, directly or indirectly, any form of legal action, and releases all claims, liabilities, obligations, losses, costs, expenses, fines and damages, against Panasonic and its distributors, retailers, customers, directors, officers, employees, affiliates, successors and assigns, whether under Proposition 65 or the Business & Profession Code section 17200 et. seq. based on any allegations of Panasonic's failure to warn about exposure to chemicals resulting from use of the Products.

5. Panasonic's Release. Panasonic, by this Agreement, waives all rights to institute any form of legal action against DiPirro and his attorneys or representatives, for all actions or statements made by DiPirro, and his attorneys or representatives, prior to and including the Effective Date, in the course of seeking enforcement of Proposition 65 or Business & Profession Code section 17200 against Panasonic.

6. Stipulated Judgment. Concurrently with the execution of this Agreement, DiPirro and Panasonic shall execute and file a stipulated judgment to be approved pursuant to CCP Sec. 664.6 by the San Francisco Superior Court in accordance with the terms of this Agreement ("Stipulated Judgment").

7. Panasonic Sales Data. Panasonic understands that the sales data provided to counsel for DiPirro by Panasonic was a material factor upon which DiPirro has relied to determine the amount of penalties in this Agreement. To the best of Panasonic's knowledge, the sales data provided is true and accurate. In the event DiPirro discovers facts which demonstrate to a reasonable degree of certainty that the sales data is *substantially* materially inaccurate, all other parts of this Agreement notwithstanding, DiPirro shall have the right to rescind this Agreement and re-institute an enforcement action against Panasonic, provided that all sums paid by Panasonic pursuant to Paragraphs 2 and 3 are returned to Panasonic within ten (10) days from the date on which DiPirro notifies Panasonic of his intent to rescind this Agreement. In such case, all applicable statutes of limitation shall be deemed tolled for the period between the date DiPirro filed the instant action and the date DiPirro notifies Panasonic that he is rescinding this Agreement pursuant to this Paragraph, provided that, in no event shall any statute of limitation be tolled beyond one (1) year from the date this action was filed. DiPirro agrees that the said sales data constitutes confidential trade information of Panasonic and will not reveal or release such data to any third person, for any reason, other than releasing it to a court in the event of a rescission, as set forth above, and then only on five (5) days prior notice to Panasonic, in order to enable Panasonic to seek a protective order against making such disclosure public.

8. 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.

9. Attorney's 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.

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

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

Hudson T. Bair, Esq.
Kapsack & Bair, LLP
1440 Broadway, Suite 610
Oakland, CA 94612

All correspondence to Panasonic shall be mailed to:

• Scott H. Reisch, Esq.
Hogan & Hartson, LLP
One Tabor Center
1200 Seventeenth Street, Suite 1500
Denver, CO 80202-5840

12. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which, when taken together, shall constitute one and the same document.

13. 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.

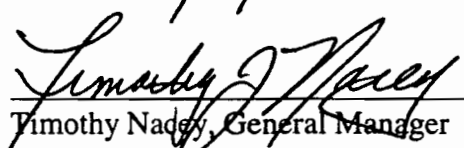
AGREED TO:

AGREED TO:

DATE: _____

DATE: 9/21/99

Michael DiPirro



Timothy Nadey, General Manager
Panasonic Factory Automation, Inc.

All correspondence to Panasonic shall be mailed to:

Scott H. Reisch, Esq.
Hogan & Hartson, LLP
One Tabor Center
1200 Seventeenth Street, Suite 1500
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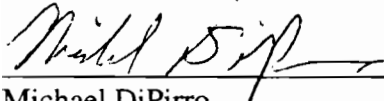
AGREED TO:

AGREED TO:

DATE:

9/24/99

DATE: _____



Michael DiPirro

Timothy Nadey, General Manager
Panasonic Factory Automation, Inc.

Exhibit A

EXHIBIT A

WELDING Machines, Power Sources and Other Welding Equipment (e.g. MIG welders, TIG welders and stick welders)