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4 Attorneys for Plaintiff
5 AS YOU SOW

FILED

JAN 24 1995

HOWARD HANSON
MARIN COUNTY CLERK
[Signature] Det

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 IN AND FOR THE COUNTY OF MARIN

11 AS YOU SOW, a non-profit organization,) No. 162247
12)
13 Plaintiff,)
14 v.) JUDGMENT ON STIPULATION
15 RALPH WILSON PLASTICS CO., a) FOR ENTRY OF JUDGMENT
16 corporation, and DOES 1 through)
17 1000,)
Defendants.)

18 In the above-entitled action, plaintiff As You Sow,
19 on behalf of the general public, and defendant Ralph Wilson
20 Plastics Co., having stipulated through their respective
21 representatives that judgment be entered pursuant to the
22 terms of the settlement agreement entered into by the
23 parties on January 16, 1995, said stipulation being attached
24 hereto.

25 IT IS HEREBY ORDERED that judgment be entered in
26 accordance with the terms of the stipulation between the
27 parties.

28 Dated: January 24, 1995

[Signature]
Judge of the Superior Court

ENTERED

343508(16691/3)

More Copies

EXHIBIT A

SETTLEMENT AGREEMENT

On or about January 13, 1995 in San Francisco, California, As You Sow ("AYS") and Ralph Wilson Plastics Co. ("RWP") agreed to the following terms and conditions:

WHEREAS:

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

RWP is a company that currently manufactures and distributes adhesive products containing toluene; and

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

A list of products containing toluene which are covered by this Agreement is provided in Exhibit A (the "Products"). Those Products which RWP makes available for sale to consumers are identified as "Consumer Products" herein and in Exhibit A; and

On August 25, 1994, on behalf of the general public, AYS served RWP, the California Attorney General, and City and District Attorneys throughout the State of California with a document entitled "60-Day Notice," which provided RWP with notice alleging that it was in violation of Health & Safety Code § 25249.6 and Business & Professions Code §§ 17200 et seq. for failing to warn purchasers that certain products it sells in California expose users to toluene, a reproductive toxin; and

On December 5, 1994, on behalf of the general public, AYS served RWP with a summons and complaint in the case of As You Sow v. Ralph Wilson Plastics Co., et al., (Case No. 162247), which is currently pending in the Marin County Superior Court; and

AYS, on behalf of the general public, and RWP, on behalf of itself and its customers, desire to compromise, settle, and conclude all disputes, controversies, claims and causes of action of any kind relating to the presence of toluene in the Products, so that RWP and its customers have no further liability relating to or arising out of those Products' alleged failure to comply with Proposition 65, whether directly, indirectly, by way of other statutes (including, but not limited to, the Unfair Competition Act), or by way of indemnification to retail or other sellers of the Products; and

In settling this matter on the terms and conditions hereinafter provided, AYS, on behalf of the general public, acknowledges that RWP made a good faith attempt to comply with Proposition 65 prior to being contacted by AYS: (a) by providing Proposition 65 warnings on the Products' Material Safety Data Sheets ("MSDSs") and (b) by providing Proposition 65 warnings on the labels of Consumer Products provided to RWP's customers in California.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. RWP agrees that it will not ship (or caused to be shipped): (a) any Consumer Products containing toluene and (b) any other Products containing toluene from any manufacturing or packaging facility for sale in the State of California unless such products bear the following warning statement on their label or container top:

"WARNING: This product contains toluene, a chemical known to the State of California to cause 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. The requirements of this Paragraph shall be implemented immediately with respect to Consumer Products and within twenty (20) days after entry of this Agreement by the Court with respect to all other Products.

2. It is agreed that the warning required by Paragraph 1 above constitutes a clear and reasonable warning for the Products that complies with Proposition 65's requirements.

3. In a further effort to ensure that purchasers of the Products receive Proposition 65 warnings for Products that have already been shipped for sale in California, RWP agrees that within ten (10) days after entry of this Agreement by the Court, it shall provide to its California Distributors the letter attached hereto as Exhibit B ("Distributor Letter").

4. RWP agrees to provide to each of its California Distributors, with the Distributor Letter referenced in Paragraph 3 above, two hundred and fifty (250) Warning Stickers. These Warning Stickers shall bear the Proposition 65 warning language contained in Paragraph 1 above.

5. As a restitutionary measure pursuant to Business & Professions Code § 17203, RWP agrees to contribute \$9,750 to the Santa Clara Center for Occupational Safety and Health, which provides education and support to immigrant women and women of color regarding occupational health and exposure issues. Payment of this sum shall be made to AYS within twenty (20) days after entry of this Agreement by the Court.

6. RWP agrees to pay \$4,000 pursuant to Health & Safety Code § 25249.7(b). Such monies shall be apportioned by AYS in accordance with Health & Safety Code § 25192, with \$3,000 of this amount being transferred by AYS to the California Attorney General's Office within ten (10) days of its receipt by AYS. Payment of this sum shall be made to AYS within twenty (20) days after entry of this Agreement by the Court.

7. 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 RWP's attention and negotiating a settlement in the public interest, RWP shall pay AYS the sum of \$16,000. Payment of this sum shall be made to AYS within twenty (20) days after entry of this Agreement by the Court.

8. **AYS Release.** AYS, in consideration of the RWP commitments and payments as set forth herein, on behalf of the general public, on its own behalf, and on behalf of its attorneys, employees, successors, assigns, predecessors, subrogees, principals, agents, consultants and insurers, does hereby release and forever discharge RWP and wholesalers, retailers, and distributors of the Products, as well as each of their successors, assigns, predecessors, stockholders, officers, directors, subrogees, subsidiaries, trustees, corporate parents, affiliates, board members, agents, attorneys, employees and consultants of and from any and all claims, demands, actions, causes of action, duties, debts, sums of money, suits, reckonings, contracts, controversies, agreements, promises, damages, responsibilities, obligations, liabilities and accounts of whatsoever kind, nature or description, direct or indirect, at law or in equity, in contract or tort or otherwise arising out of or relating, directly or indirectly, to the Products' compliance with Proposition 65, or arising from or relating to any facts or legal theories involving the Products' compliance with Proposition 65; it being the specific intent and purpose of the parties hereto that this settlement agreement and release shall extend to any and all persons, corporations, associations, or other entities and to any and all of the matters aforesaid, whether now known or unknown, which exist or might be claimed to exist at or prior to the date hereof; and AYS, its attorneys, employees,

successors, assigns, predecessors, subrogees, principals, agents, consultants and insurers, and each of them, expressly waive, release and relinquish any and all claims or rights to assert that any such matter, cause or thing of any kind or nature whatsoever has been, through oversight or error or intentionally or unintentionally, omitted with respect to the Products' compliance with Proposition 65.

9. **RWP Release.** RWP, in consideration of the terms set forth herein, on its own behalf, its attorneys, employees, successors, assigns, predecessors, subrogees, principals, agents, consultants and insurers, does hereby release and forever discharge AYS, as well as each of their successors, assigns, predecessors, stockholders, officers, directors, subrogees, subsidiaries, trustees, corporate parents, affiliates, board members, agents, attorneys, employees and consultants of and from any and all claims, demands, actions, causes of action, duties, debts, sums of money, suits, reckonings, contracts, controversies, agreements, promises, damages, responsibilities, obligations, liabilities and accounts of whatsoever kind, nature or description, direct or indirect, at law or in equity, in contract or tort or otherwise arising out of or relating, directly or indirectly, to the Products' compliance with Proposition 65, or arising from or relating to any facts or legal theories involving the Products' compliance with Proposition 65; it being the specific intent and purpose of the parties hereto that this settlement agreement and release shall extend to any and all persons, corporations, associations, or other entities and to any and all of the matters aforesaid, whether now known or unknown, which exist or might be claimed to exist at or prior to the date hereof; and RWP, its attorneys, employees, successors, assigns, predecessors, subrogees, principals, agents, consultants and insurers, and each of them, expressly waive, release and relinquish any and all claims or rights to assert that any such matter, cause or thing of any kind or nature whatsoever has been, through oversight or error or intentionally or unintentionally, omitted with respect to the Products' compliance with Proposition 65.

10. Upon execution of this Agreement, the parties shall file a stipulated judgment incorporating the terms of this Agreement in the Marin County Superior Court to be approved by the Court pursuant to CCP § 664.6.

11. 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.

12. The parties agree that they have been represented in the negotiations for, and in the preparation of, this Agreement by counsel of their own choosing; that they have read the Agreement; and that they are fully aware of and understand its contents and legal effect. Accordingly, this Agreement shall not be construed against any party.

13. 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.

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

15. All correspondence to AYS shall be mailed to:

Andrew Packard, Esq.
Chanler & Associates
1700 Montgomery Street, 3rd Floor
San Francisco, CA 94111

16. All correspondence to RWP shall be mailed to:

Gail Peek, Esq.
Ralph Wilson Plastics Co.
10601 NW HK Dodgen Loop
Temple, TX 76504

17. Nothing in this Agreement shall be construed as an admission by RWP 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 RWP 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 RWP under this Agreement.

18. 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:

By:

Senay Ay
As You Sow

Dated: January 17, 1995

AGREED TO:

By:

Robert H. Falk
Ralph Wilson Plastics Co.

Dated: January 13, 1995

EXHIBIT A

1. Lokweld 100 (Consumer Product)
2. Lokweld 600 (Consumer Product)
3. Lokweld 110
4. Lokweld 260/270
5. Lokweld 400
6. Lokweld 500
7. Lokweld 800/801
8. Lokweld 810
9. Lokweld 860/861
10. Lokweld 880/881
11. Lokweld 890/891
12. Lokweld 920/921
13. Lokweld 950/951
14. Lokweld 952/953
15. Lokweld 980/981
16. Lokweld 990/991
17. Lokweld 3301

EXHIBIT B
[RWP Letterhead]

IMPORTANT LEGAL NOTICE

Date:
Attention: All Ralph Wilson Plastics Co. Distributors
Subject: California Proposition 65 Warnings for Products
Containing Toluene

This letter is to advise you that the Ralph Wilson Plastics Co. ("RWP") products listed in Exhibit A to this letter contain TOLUENE, a chemical known to the State of California to cause birth defects or other reproductive harm. Pursuant to the Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65"), the purchasers of the products listed on Exhibit A must be given clear and reasonable warning of toluene's reproductive harm.

RWP has recently entered into an agreement under which it will begin putting Proposition 65 warnings on the tops or labels of all containers of the products listed in Exhibit A to this letter; however some of these products may have entered the chain of distribution prior to the onset of RWP's improved Proposition 65 warning program. In order to provide the required warnings for any such products, we are asking you to:

Include one of the enclosed stickers with each of the products listed in Exhibit A if it does not already bear the following statement on its container top or label:

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

If this statement already appears on the container's label or top, you do not need to include one.

Should you have any questions or concerns about this matter, please do not hesitate to contact John Duff at the Los Angeles warehouse (213-921-7426) or David Sears at the Hayward warehouse (510-489-9555). In addition, we will be glad to supply additional stickers if requested.