


1 Clifford A. Chanler, State Bar No. 135534  
2 Syda Kosofsky, State Bar No. 172184  
3 CHANLER & ASSOCIATES  
4 1700 Montgomery Street, Suite 110  
5 San Francisco, CA 94111  
6 Tel: (415) 391-1122  
7  
8 Attorneys for Plaintiff  
9 AS YOU SOW

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
11 IN AND FOR THE COUNTY OF SAN FRANCISCO

12 AS YOU SOW, a non-profit ) Case No. 968992  
13 corporation, )  
14 Plaintiff, )  
15 v. ) STIPULATION FOR  
16 RESTEK CORPORATION; et al., ) ENTRY OF JUDGMENT  
17 Defendants. )  
18

19 IT IS HEREBY STIPULATED, by and between plaintiff As  
20 You Sow and defendant Restek Corporation, through their  
21 respective representatives, that judgment in the above-  
22 entitled action be entered in accordance with the terms of the  
23 settlement agreement between the parties, which is attached  
24 hereto.

25 Dated: <sup>June</sup>~~May~~ 22, 1995

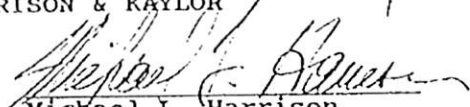
26 CHANLER & ASSOCIATES  
27 By:   
28 Syda Kosofsky  
Attorneys for Plaintiff  
AS YOU SOW

[SIGNATURES CONTINUED]

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Dated: ~~May~~ <sup>June 1</sup> \_\_, 1995

HARRISON & KAYLOR

By:   
Michael L. Harrison  
(State Bar No. 55150)

OF COUNSEL:  
Robert C. Rayman  
DEVFCKA & RAYMAN  
111 Sowers St., Suite 600  
State College, PA 16801  
(814) 234-5227

Attorneys for Defendant  
RESTEK CORPORATION

SETTLEMENT AGREEMENT

On May 18, 1995 in San Francisco, California, As You Sow ("AYS") and Restek Corporation ("Restek") 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; and

Restek is a Pennsylvania company that currently manufactures and distributes chromatography products, including chemical standards, some of which contain chemicals officially listed by the State of California as chemicals known to cause cancer and chemicals officially listed by the State of California as chemicals known to cause birth defects and other reproductive harm pursuant to Health & Safety Code §25249.8 (the "Products"). The Products have been manufactured and distributed by Restek for sale and/or use in California since January 1, 1992; and

The Products are packaged in individual plastic cartons. A warning label including NFPA codes for fire, health, reactivity, and specific hazards is attached to each glass ampule containing a chemical standard. A "Hazardous Materials Classification" card is enclosed in each plastic carton. The card describes the hazard levels indicated by the NFPA code; and

On January 9, 1994, AYS served Restek with a document entitled "60-Day Notice" which provided Restek with notice that it was allegedly in violation of Health & Safety Code §25249.6 for failing to warn purchasers that certain products it distributes for sale and/or use in California expose users to Proposition 65-listed chemicals; and

On April 21, 1995, AYS filed a Complaint in the case As You Sow v. Restek Corporation (No. 968992) in San Francisco County Superior Court, naming Restek Corporation as a defendant and alleging violations of Business & Professions Code §17200 and Health & Safety Code §25249.6 on behalf of individuals in California who allegedly are exposed to Proposition 65-listed chemicals including dichloromethane (methylene chloride), p-Dichlorobenzene, 2-4-6 trichlorophenol and N-nitrosodi-n-propylamine in certain Restek products; and

**NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:**

1. **Product Labeling.** Beginning no later than January 1, 1996, Restek shall initiate revisions to its current labels for the Products. Restek agrees that as of June 1, 1996, it

shall not ship (or cause to be shipped) any of the Products for sale or use in the State of California unless each such Product contains (1) a notation in the white diamond of the NFPA coded label indicating that the product presents a "specific hazard," and (2) one of the following warning statements on the "Hazardous Materials Classification" card, under the "SPECIFIC HAZARD" heading:

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

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

- 1.2. For Products containing a chemical(s) listed by the State of California as known to cause cancer:

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

- 1.3. For Products containing any combination of chemicals listed by the State of California as known to cause cancer and 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."**

- 1.4. The warning statement shall be displayed with such conspicuousness so as to render it likely to be read and understood by an ordinary individual. An exemplar of a satisfactory NFPA coded label and a "Hazardous Materials Classification" card are attached hereto as Exhibit A.

2. **Current Production.** In an effort to ensure that individuals receive Proposition 65 warnings during the period while Restek produces labels in accordance with ¶1, since March 1, 1995, Restek has been affixing warning stickers to the outside of the flex tubes containing the Products which Restek knows or has reason to know will enter the State of California. The stickers display one of the warning statements specified in ¶1 above.
3. **MSDS Revisions.** Beginning immediately, Restek will initiate revisions to its current MSDSs for Products so that the warning or warnings will be consistent in wording with the on-label warning language required by ¶1. Final printed MSDSs incorporating the revised warnings will begin to be

distributed in the normal course of business but in any event no later than September 1, 1995. An example of an acceptable MSDS is attached as Exhibit B.

4. **Restitution and Costs.** Restek agrees to pay \$5000 to AYS upon execution of this Agreement. The restitutionary component of this sum, made pursuant to Business & Professions Code §17203, sum shall be distributed to Unplug, a non-profit organization located in Oakland which is involved in environmental issues of concern to students. The cost component of this payment will be used by AYS to help defray its investigation fees and costs, expert fees, reasonable attorneys' fees, and any other costs incurred as a result of investigating, bringing this matter to Restek's attention, litigating and negotiating a settlement in the public interest.
5. **AYS Release.** AYS, by this Agreement, waives all rights to institute action against Restek, its distributors or retailers which sell Restek's Products, whether under Proposition 65, Business & Profession Code §§17200 et seq., or any other statute or common law claim based on Restek's failure to warn consumers about exposure to Proposition 65 chemicals from any of the Products.
6. **Restek Release.** Restek, by this Agreement, waives all rights to institute any form of legal action against AYS, its members, officers, directors, attorneys and representatives (the "AYS Releasees") based on any statute or provision of common law and for all actions or statements made by the AYS Releasees in the course of seeking enforcement of Proposition 65 against Restek.
7. **Stipulated Judgment.** The parties shall file a stipulated judgment to be approved pursuant to CCP §564.6 by the San Francisco County Superior Court in accordance with the terms of this agreement, which judgment shall be deemed res judicata for this matter.
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. **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.
10. **Governing Law.** The terms of this Agreement shall be governed by the laws of the State of California.



11. **Correspondence.**

All correspondence to AYS shall be mailed to:

Syda Kosofsky, Esq.  
Chanler & Associates  
1700 Montgomery Street, Suite 110  
San Francisco, CA 94111

All correspondence to Restek shall be mailed to:

Bob Rayman, Esq.  
Devecka & Rayman  
111 Sowers St., Suite 600  
State College, PA 16801

12. **No Admission.** Nothing in this Agreement shall be construed as an admission by Restek 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 Restek of any fact, finding, conclusion, issue of law, or violation of law. However, this paragraph shall not diminish or otherwise affect the obligation, responsibilities, and duties of Restek under this Agreement.
13. **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.

AGREED TO:

By: \_\_\_\_\_

*Syda Kosofsky*  
As You Sow

AGREED TO:

By: \_\_\_\_\_

*Bob W. DeVecka*  
Restek Corporation

Cat.#30001 VOA LM Screening Mix #1  
Lot# A003995 Exp. Date 8/97 Store @ -18 C  
1000 ug/ml ea. in purge and trap methanol  
**FOR LABORATORY USE ONLY**

Restek Corporation • 110 Benner Circle • Bellefonte, PA 16823



#### Hazardous Materials Classification

**Red - FIRE HAZARD (flash point)**

- 4 *Extreme*: Below 73°F
- 3 *Serious*: Below 100°F
- 2 *Moderate*: Below 200°F
- 1 *Slight*: Above 200°F
- 0 *Minimal*: Will not burn

**Blue - HEALTH**

- 4 *Extreme*
- 3 *Serious*
- 2 *Moderate*
- 1 *Slight*
- 0 *Minimal*

**Yellow - REACTIVITY**

- 4 *Extreme*: May detonate
- 3 *Serious*: Shock & heat may detonate
- 2 *Moderate*: Violent chemical change
- 1 *Slight*: Unstable if heated
- 0 *Minimal*: Stable

**White - SPECIFIC HAZARD**

- 1 This product contains a chemical(s) known to the State of California to cause cancer.
- 2 This product contains a chemical(s) known to the State of California to cause birth defects or other reproductive harm.
- 3 This product contains a chemical(s) known to the State of California to cause cancer & birth defects or other reproductive harm.

**IMPORTANT - Read MSDS prior to use!**



110 Benner Circle • Bellefonte, PA 16823-8812  
Phone: 814-353-1300 • Fax: 814-353-1309

EXHIBIT A





## Section VI - Health Hazard Data

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ROUTES OF ENTRY	Inhalation? Yes	SKIN? Yes	Ingestion? Yes
<b>HEALTH HAZARDS (Acute and Chronic)</b> Acute: Irritant, headache, fatigue, dilated pupils, visual disturbance, blindness, shallow respiration, respiratory failure, cyanosis, convulsions, coma, hypotension, death. Chronic: Positive Mutagen (RTECS); gastro-intestinal, liver, kidney, and cardiovascular system injury, visual impairment, dermatitis. <b>CANCER HAZARD</b>			
<b>COMPONENTS LISTED AS CARCINOGENS OR POTENTIAL CARCINOGENS:</b> benzene 71-43-2 (NTP, IARC, OSHA) RTECS# CY1400000 toluene 108-88-3 (CA PROP 65) RTECS# XS5250000 (reproductive toxin)			
Consult RTECS for complete information on the effects of these compound.			
<b>SIGNS AND SYMPTOMS OF EXPOSURE</b> nausea, drowsiness, intoxication, severe depression, headache, visual disturbance leading to blindness, coughing, shortness of breath; burning, itching, redness, or blisters on skin; burning, watering, swelling and redness in eyes			
<b>MEDICAL CONDITIONS GENERALLY AGGRAVATED BY EXPOSURE</b> dermatitis, diseases of eyes, liver, kidneys, lungs, and cardiovascular system			
<b>EMERGENCY AND FIRST AID PROCEDURES:</b> Eyes: Remove contact lenses if present. Hold eyelids open and irrigate with large volume of water for 15 min. Seek medical treatment. Skin: Immediately wash with soap and water. Continue rinsing with large volume of water for 15 min. Remove contaminated clothing. Inhalation: If inhaled, remove to fresh air. Have trained person administer oxygen and CPR if needed. Seek medical treatment. Ingestion: Ingestion may cause blindness. If swallowed, drink large volume of water, then induce vomiting. <b>DO NOT</b> attempt to give fluids or induce vomiting if person is unconscious. Contact Poison Control Center.			
<b>HAZARDOUS MIXTURES OF OTHER LIQUIDS, SOLIDS, OR GASES</b> May form explosive vapor/air mixtures. Incomplete combustion may generate toxic vapors.			

## Section VII - Precautions for Safe Handling and Use

<b>STEPS TO BE TAKEN IN CASE MATERIAL IS RELEASED OR SPILLED</b> Wear personal protective equipment. Absorb small spills on paper, vermiculite, or other absorbent. Collect and store in closed container for disposal.
<b>WASTE DISPOSAL METHOD</b> Incinerate at an approved facility in accordance with federal, state, and local regulations.
<b>PRECAUTIONS TO BE TAKEN IN HANDLING AND STORAGE</b> CONTAINS A CARCINOGEN or SUSPECTED CARCINOGEN. Avoid all inhalation and contact. Keep in a tightly closed container at all times. Handle with the utmost care. Store in an explosion proof freezer at -18°C.
<b>OTHER PRECAUTIONS*</b> This product contains a chemical(s) known to the State of California to cause cancer and birth defects or other reproductive harm.

## Section VIII - Control Measures

<b>RESPIRATORY PROTECTION (Please specify)</b> Respirator with organic vapor cartridge.	
<b>VENTILATION</b> Use in an area provided with general and local exhaust ventilation meeting OSHA requirements.	
<b>PROTECTIVE GLOVES</b> Solvent resistant. Butyl rubber, viton, or equivalent	<b>EYE PROTECTION</b> Safety glasses or goggles.
<b>OTHER PROTECTIVE EQUIPMENT</b> Protective clothing meeting laboratory safety requirements.	

\* Various Government agencies (i.e., Department of Transportation, Occupational Safety and Health Administration, Environmental Protection Agency, and others) may have specific regulations concerning the transportation, handling, storage or use of this product which may not be contained herein. The customer or user of this product should be familiar with these regulations.

## Section VI - Health Hazard Data

Page: 2 of 2

ROUTES OF ENTRY	Inhalation? Yes	skin? Yes	Ingestion? Yes
<b>HEALTH HAZARDS (Acute and Chronic)</b> Acute: Irritant, headache, fatigue, dilated pupils, visual disturbance, blindness, shallow respiration, respiratory failure, cyanosis, convulsions, coma, hypotension, death. Chronic: Positive Mutagen (RTECS); gastro-intestinal, liver, kidney, and cardiovascular system injury, visual impairment, dermatitis. <b>CANCER HAZARD</b>			
<b>COMPONENTS LISTED AS CARCINOGENS OR POTENTIAL CARCINOGENS:</b>			
benzene	71-43-2 (NTP, IARC, OSHA)	RTECS# CY1400000	
toluene	108-88-3 (CA PROP 65)	RTECS# XS5250000 (reproductive toxin)	
Consult RTECS for complete information on the effects of these compound.			
<b>SIGNS AND SYMPTOMS OF EXPOSURE</b> nausea, drowsiness, intoxication, severe depression, headache, visual disturbance leading to blindness, coughing, shortness of breath; burning, itching, redness, or blisters on skin; burning, watering, swelling and redness in eyes			
<b>MEDICAL CONDITIONS GENERALLY AGGRAVATED BY EXPOSURE</b> dermatitis, diseases of eyes, liver, kidneys, lungs, and cardiovascular system			
<b>EMERGENCY AND FIRST AID PROCEDURES:</b> Eyes: Remove contact lenses if present. Hold eyelids open and irrigate with large volume of water for 15 min. Seek medical treatment. Skin: Immediately wash with soap and water. Continue rinsing with large volume of water for 15 min. Remove contaminated clothing. Inhalation: If inhaled, remove to fresh air. Have trained person administer oxygen and CPR if needed. Seek medical treatment. Ingestion: Ingestion may cause blindness. If swallowed, drink large volume of water, then induce vomiting. DO NOT attempt to give fluids or induce vomiting if person is unconscious. Contact Poison Control Center.			
<b>HAZARDOUS MIXTURES OF OTHER LIQUIDS, SOLIDS, OR GASES</b> May form explosive vapor/air mixtures. Incomplete combustion may generate toxic vapors.			

## Section VII - Precautions for Safe Handling and Use

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<b>WASTE DISPOSAL METHOD</b> Incinerate at an approved facility in accordance with federal, state, and local regulations.
<b>PRECAUTIONS TO BE TAKEN IN HANDLING AND STORAGE</b> CONTAINS A CARCINOGEN or SUSPECTED CARCINOGEN. Avoid all inhalation and contact. Keep in a tightly closed container at all times. Handle with the utmost care. Store in an explosion proof freezer at -18°C.
<b>OTHER PRECAUTIONS*</b> This product contains a chemical(s) known to the State of California to cause cancer and birth defects or other reproductive harm.

## Section VIII - Control Measures

<b>RESPIRATORY PROTECTION (Please specify)</b> Respirator with organic vapor cartridge.	
<b>VENTILATION</b> Use in an area provided with general and local exhaust ventilation meeting OSHA requirements.	
<b>PROTECTIVE GLOVES</b> Solvent resistant. Butyl rubber, viton, or equivalent	<b>EYE PROTECTION</b> Safety glasses or goggles.
<b>OTHER PROTECTIVE EQUIPMENT</b> Protective clothing meeting laboratory safety requirements.	

\* Various Government agencies (i.e., Department of Transportation, Occupational Safety and Health Administration, Environmental Protection Agency, and others) may have specific regulations concerning the transportation, handling, storage or use of this product which may not be contained herein. The customer or user of this product should be familiar with these regulations.