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Attorneys for Plaintiff
Whitney R. Leeman, Ph.D.

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE CITY AND COUNTY OF SAN FRANCISCO
UNLIMITED CIVIL JURISDICTION

WHITNEY R. LEEMAN, Ph.D.

Plaintiff,

vs.

RITE AID CORPORATION, and DOES 1
through 150,

Defendant.

Case No. CGC-04-429842

**STIPULATION AND [PROPOSED]
ORDER RE: CONSENT JUDGMENT**

1. INTRODUCTION

1.1 Plaintiff and Settling Defendant This Consent Judgment is entered into by and between plaintiff Whitney Leeman, Ph.D. (hereafter "Dr. Leeman" or "Leeman" or "Plaintiff") and RITE AID CORPORATION (hereafter "Rite Aid"), with Plaintiff and Rite Aid collectively referred to as the "Parties" and Dr. Leeman and Rite Aid each being a "Party".

1.2 Plaintiff Dr. Leeman is an individual residing in Sacramento, California 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.

1 **1.3 General Allegations** Plaintiff alleges that Rite Aid has distributed and/or sold in the
2 State of California mugs, bowls and tableware with colored designs and/or artwork on the exterior
3 surface that contain lead (and/or lead compounds) that are listed pursuant to the Safe Drinking Water
4 and Toxic Enforcement Act of 1986, California Health & Safety Code §§25249.5 et seq., also
5 known as Proposition 65, to cause cancer and birth defects and other reproductive harm. Lead
6 (and/or lead compounds) shall be referred to herein as “Listed Chemicals.” Rite Aid denies
7 Plaintiff’s allegations.

8 **1.4 Product Descriptions** The products that are covered by this Consent Judgment are
9 defined as follows: all mugs, bowls and tableware with colored designs and/or artwork on their
10 exterior surface containing lead. Such products collectively are referred to herein as the “Products.”
11 All products identified on Exhibit A are specifically covered by this Consent Judgment.

12 **1.5 Notices of Violation** On April 25, 2004, Dr. Leeman alleges that she served Rite Aid
13 and various public enforcement agencies with documents, entitled “60-Day Notice of Violation”
14 (“Notice”) that provided Rite Aid and such public enforcers with notice that alleged that Rite Aid
15 was in violation of Health & Safety Code §25249.6 for failing to warn purchasers that certain
16 products that it sold expose users in California to lead and lead compounds.

17 **1.6 Complaints** On March 16, 2004, Dr. Leeman, who asserts that she is acting in the
18 interest of the general public in California, filed a complaint (hereafter referred to as the
19 “Complaint” or the “Action”) in the Superior Court for the City and County of San Francisco against
20 Rite Aid and Does 1 through 150, alleging violations of Health & Safety Code § 25249.6 based on
21 the alleged exposures to one or more of the Listed Chemicals contained in certain products sold by
22 Rite Aid.

23 **1.7 No Admission** Rite Aid denies the material factual and legal allegations contained in
24 Plaintiff’s Notice and Complaint and maintains that all products that it has sold and distributed in
25 California including the Products have been and are in compliance with all laws. Nothing in this
26 Consent Judgment shall be construed as an admission by Rite Aid of any fact, finding, issue of law,
27 or violation of law, nor shall compliance with this Agreement constitute or be construed as an
28 admission by Rite Aid of any fact, finding, conclusion, issue of law or violation of law. However,

1 this section shall not diminish or otherwise affect the obligations, responsibilities and duties of Rite
2 Aid under this Consent Judgment.

3 **1.8 Consent to Jurisdiction** For purposes of this Consent Judgment only, the Parties
4 stipulate that this Court has jurisdiction over the allegations of violations contained in the Complaint
5 and personal jurisdiction Rite Aid as to the acts alleged in the Complaint, that venue is proper in the
6 County of San Francisco, and that this Court has jurisdiction to enter this Consent Judgment and to
7 enforce the provisions thereof.

8 **1.9 Effective Date** For purposes of this Consent Judgment, "Effective Date" shall be
9 December 31, 2004.

10 **2. INJUNCTIVE RELIEF: PROPOSITION 65 WARNINGS AND REFORMULATION**

11 **2.1 Warning Obligations For Non-Reformulated Products**

12
13 **2.1.A. Required Warnings and Non-exempt Products** After December 31, 2004,
14 Rite Aid shall not sell or offer for sale in California any Non-exempt Products containing the Listed
15 Chemicals, unless warnings are given in accordance with one or more provisions in subsection 2.3
16 below. As used in this Consent Judgment, "Non-exempt Products" shall mean all Products sold in
17 California except those excluded in subsection 2.1.B below.

18 **2.1.B. Exceptions** The warning requirements set forth in subsections 2.1.A and 2.2
19 below shall not apply to:

- 20 i. any Products manufactured before December 31, 2004,
21 ii. Reformulated Products, or
22 iii. any Products manufactured by any other person in the course of doing
23 business who is subject to a final judgment addressing Proposition 65
24 warning obligations arising from alleged exposures to ceramic mugs
 and bowls with colored artwork, designs or markings on the exterior
 surface.

25 **2.2 Clear And Reasonable Warnings**

26 **2.2.A. Product Labeling** A warning is affixed to the packaging, labeling or directly
27 to or on a Non-exempt Product by Rite Aid, its agent, or the manufacturer, importer, or distributor of
28

the Non-exempt Product, unless Rite Aid provides that warning itself, that states:

WARNING: The materials used as colored decorations on the exterior of this product contain lead, a chemical known to the State of California to cause birth defects or other reproductive harm.
or

WARNING: The materials used as colored decorations on the exterior of these products contain lead, a chemical known to the State of California to cause birth defects or other reproductive harm.¹
or

WARNING: The materials used as colored decorations on the exterior of the following products contain lead, a chemical known to the State of California to cause birth defects or other reproductive harm.

Warnings issued for Non-exempt Products pursuant to this subsection shall be prominently placed with such conspicuousness as compared with other words, statements, designs, or devices as to render it likely to be read and understood by an ordinary individual under customary conditions of use or purchase. Any changes to the language or format of the warning required by this subsection shall only be made following: (1) approval of Plaintiff; (2) approval from the California Attorney General's Office, provided that written notice of at least fifteen (15) days is given to Plaintiff for the opportunity to comment; or (3) Court approval.

2.2.B. Point-of-Sale Warnings Rite Aid may execute its warning obligations, where applicable, through arranging for the posting of signs at its retail outlets in the State of California at which Non-exempt Products are sold, in accordance with the terms specified in subsections 2.2.B.1, 2.2.B.2 and 2.2.B.3.

2.2.B.1. Point of Sale warnings may be provided through one or more signs posted at or near the point of sale or display of the Non-exempt Products that state:

WARNING: The materials used as colored decorations on the exterior of this product contain lead, a chemical known to the State of California to cause birth defects or other reproductive harm.
or

WARNING: The materials used as colored decorations on the exterior of tableware products sold in this store contain lead, a chemical known to the State of California to cause birth

¹ This formulation of the warning may only be used with respect to Products when sold as a set.

1 defects or other reproductive harm.²
2 or

3 **WARNING: The materials used as colored decorations on the exterior of**
4 **the following tableware products sold in this store contain**
5 **lead, a chemical known to the State of California to cause**
6 **birth defects or other reproductive harm.**

7 2.2.B.2. In lieu of displaying warning signs with the language set forth
8 above, Rite Aid may elect to combine any point-of-sale warning signs required under this Consent
9 Judgment with any warnings it provides for ceramic tableware (as defined in the Consent Judgment
10 in *People v. Josiah Wedgwood & Sons, Inc.*) or lead crystal (as defined in the Consent Judgment in
11 *Mateel Environmental Justice Foundation v. T.J. Maxx*), through use of the warning signs in the
12 form of Exhibits B or C. If Rite Aid elects to provide combined warnings through use of Exhibit B,
13 then it shall place the Designated Symbol (the yellow triangle shown in Exhibit B) next to each
14 display of Non-exempt Product, ceramic tableware, and lead crystal for which a warning is to be
15 given. If Rite Aid elects to provide combined warnings through use of Exhibit C, then the Non-
16 exempt Products for which the warning is to be given shall be identified by manufacturer and
17 product description in the warning sign, and Designated Symbols need not be displayed. If Rite Aid
18 elects to combine its Non-exempt Product and other product warnings under this subsection, display
19 of warnings for the other products and the Non-exempt Products in the manner set forth in this
20 subsection shall constitute compliance with Proposition 65 for all such products.

21 2.2.B.3. A point of sale warning provided pursuant to subsection
22 2.2.B.1 shall be prominently placed with such conspicuousness as compared with other words,
23 statements, designs, or devices as to render it likely to be read and understood by an ordinary
24 individual under customary conditions of use or purchase and shall be placed or written in a manner
25 such that the consumer understands to which specific Non-exempt Products the warnings apply so as
26 to minimize if not eliminate the chances that an overwarning situation will arise. Any changes to the
27 language or format of the warning required for Non-exempt Products by this subsection shall only be
28 made following: (1) approval of Plaintiff; (2) approval from the California Attorney General's

² This formulation of the warning may only be used where the store in which the Non-exempt Products are sold sells only Non-exempt Products, which are not included in Section 2.3.

Office, provided that written notice of at least fifteen (15) days is given to Plaintiff for the opportunity to comment; or (3) Court approval.

2.3 Reformulation Standards: Products satisfying the conditions of section 2.3.A, 2.3.B, 2.3.C, 2.3.D and/or 2.3.E are referred to as "Reformulated Products." The warnings required pursuant to sections 2.1.A and 2.2 above shall not be required for Reformulated Products, defined as follows:

2.3.A. If the colored artwork, designs or markings on the exterior surface of the Product exclusive of the top 20 millimeters of the ware (i.e., below the exterior portion of the lip and rim area as defined by American Society of Testing and Materials Standard Test Method C927-99, hereinafter the "Lip and Rim Area"), produce a test result no higher than 1.0 micrograms (ug) of lead using a Ghost Wipe™ test applied on painted portions of the surface of the Product performed as outlined in NIOSH method no. 9100, such Product is a Reformulated Product; or

2.3.B. If the Product achieves a result of .99 ppm or less for lead when tested under the protocol attached hereto as Exhibit D (the ASTM 738-81 test method modified for total immersion and comparison to internal volume), such Product is a Reformulated Product; or

2.3.C. If the colored artwork, designs or markings on the exterior surface of the Product extends into the exterior Lip and Rim Area or the interior (food contact surface) of the Product, and the Product yields a test result acceptable under section 2.3.A above, and (1) a result of 0.5 micrograms/milliliter (ug/ml) of lead or less using ASTM method C 927-99 with respect to any colored artwork, designs or markings in the Lip and Rim Area and/or (2) a result of 0.1 parts per million (ppm) of lead or less using AOAC/ASTM method 973.32 with respect to any colored artwork, designs or markings on the interior (food contact surface) if the Product is hollowware, or a result of 0.226 parts per million (ppm) of lead or less using AOAC/ASTM method 973.32 with respect to any colored artwork, designs or markings on the interior (food contact surface) if the Product is flatware, such Product is a Reformulated Product; or

2.3.D. If the Product utilizes paints for all colored artwork, designs or markings containing six one-hundredths of one percent (0.06%) lead by weight or less as measured at Rite Aid's option, either before or after the material is fired onto (or otherwise affixed to) the Product,

1 using a sample size of the materials in question measuring approximately 50-100 mg and a test
2 method of sufficient sensitivity to establish a limit of quantitation (as distinguished from detection)
3 of less than 600 parts per million ("ppm")), such Product is a Reformulated Product;

4 2.3.E. Should any court enter a final judgment in a case brought by Dr. Leeman or
5 the People of the State of California involving tableware with colored artwork, designs or markings
6 allegedly containing lead which sets forth standards defining when Proposition 65 warnings will or
7 will not be required ("Alternative Standards"), Rite Aid shall be entitled to seek a modification of
8 this Consent Judgment pursuant to section 15 herein, so as to be able to utilize and rely on such
9 Alternative Standards in lieu of those set forth in sections 2.3 of this Consent Judgment; Dr. Leeman
10 shall not unreasonably contest any proposed application to effectuate such a modification provided
11 that the Products for which such a modification are sought are substantially similar in type and
12 function to those for which the Alternative Standards apply.

13 **3. MONETARY PAYMENTS**

14 **3.1 Penalties Pursuant To Health & Safety Code §25249.7(b)** Pursuant to Health &
15 Safety Code Section 25249.7(b), Rite Aid shall pay a total of \$45,000 in civil penalties in two
16 installments with the first payment of \$30,000 to be made not later than November 30, 2004, and
17 made payable to "Chanler Law Group in Trust For Whitney R. Leeman." The second penalty
18 payment of \$15,000 shall be paid on January 20, 2006; however, such second payment shall be
19 waived in the event that Rite Aid certifies on or before January 10, 2006, that 80% or more of the
20 Products it sold in California in calendar year 2005 were Reformulated Products; provided, however,
21 that Products manufactured before October 31, 2004, shall not be included in this calculation. Any
22 such certification with respect to the percentage of Reformulated Products sold shall specify the
23 Product (by Product name, SKU or UPC Code) and the number of units sold for each such Product.

24 3.1.A. In the event that Rite Aid pays any penalty and the Consent Judgment is not
25 thereafter approved and entered by the Court, Dr. Leeman shall return any penalty funds paid under
26 this agreement within fifteen (15) days of receipt of a written request from Rite Aid following notice
27 of the issuance of the Court's decision.
28

3.2 Apportionment of Penalties Received After Court approval of this Consent Judgment pursuant to section 6, all penalty monies received shall be apportioned by Plaintiff in accordance with Health & Safety Code § 25192, with 75% of these funds remitted to the State of California's Office of Environmental Health Hazard Assessment and the remaining 25% of these penalty monies retained by Plaintiff as provided by Health & Safety Code § 25249.12(d) Plaintiff shall bear all responsibility for apportioning and paying to the State of California the appropriate civil penalties paid in accordance with this section.

4. REIMBURSEMENT OF FEES AND COSTS

4.1 The Parties acknowledge that Plaintiff and her counsel offered to resolve this dispute without reaching terms on the amount of fees and costs to be reimbursed to them, thereby leaving this fee issue to be resolved after the material terms of the agreement had been settled. Rite Aid then expressed a desire to resolve the fee and cost issue shortly after the other settlement terms had been finalized. The Parties then attempted to (and did) reach an accord on the compensation due to Plaintiff and her counsel under the private attorney general doctrine codified at Code of Civil Procedure § 1021.5 for all work performed through the Effective Date of the Agreement. Under the private attorney general doctrine codified at Code of Civil Procedure § 1021.5, Rite Aid shall reimburse Plaintiff and her counsel for fees and costs, incurred as a result of investigating, bringing this matter to Rite Aid's attention, litigating and negotiating a settlement in the public interest. Rite Aid shall pay Plaintiff and her counsel \$133,000 for all attorneys' fees, expert and investigation fees, and litigation costs. The payment shall be made payable to the "Chanler Law Group" and shall be delivered to Plaintiff's counsel on or before December 1, 2004, at the following address:

CHANLER LAW GROUP
Attn: Clifford A. Chanler
71 Elm Street, Suite 8
New Canaan, CT 06840

Except as specifically provided in this Consent Judgment, Rite Aid shall have no further obligation with regard to reimbursement of Plaintiff's attorney's fees and costs with regard to the Products covered in this Action.

1 **5. RELEASE OF ALL CLAIMS**

2 **5.1 Plaintiff's Release of Rite Aid** In further consideration of the promises and
3 agreements herein contained, and for the payments to be made pursuant to sections 3 and 4, Plaintiff,
4 on behalf of herself, her past and current agents, representatives, attorneys, successors and/or
5 assignees, and in the interest of the general public, hereby waives all rights to institute or participate
6 in, directly or indirectly, any form of legal action and release all claims, including, without
7 limitation, all actions, causes of action, in law or in equity, suits, liabilities, demands, obligations,
8 damages, costs, fines, penalties, losses or expenses (including, but not limited to, investigation fees,
9 expert fees and attorneys' fees) of any nature whatsoever, whether known or unknown, fixed or
10 contingent (collectively "Claims"), against Rite Aid and each of its distributors, wholesalers,
11 vendors, suppliers, licensors, licensees, auctioneers, dealers, customers, owners, purchasers, users,
12 parent companies, corporate affiliates, subsidiaries and their respective officers, directors, attorneys,
13 representatives, shareholders, agents, and employees (collectively, "Rite Aid Releasees") arising
14 under Proposition 65, Business & Professions Code § 17200 et seq. and Business & Professions
15 Code § 17500 et seq., related to Rite Aid's or Rite Aid Releasees' alleged failure to warn about
16 exposures to or identification of Listed Chemicals contained in the Products.

17 The Parties further agree and acknowledge that this Consent Judgment is a full, final, and
18 binding resolution of any violation of Proposition 65, Business & Professions Code §§ 17200 et seq.
19 and Business & Professions Code §§ 17500 et seq., that have been or could have been asserted in the
20 Complaints against Rite Aid for its alleged failure to provide clear and reasonable warnings of
21 exposure to or identification of Listed Chemicals in the Products.

22 In addition, Plaintiff, on behalf of herself, her attorneys, and their agents, waive all rights to
23 institute or participate in, directly or indirectly, any form of legal action and releases all Claims
24 against the Rite Aid Releasees arising under Proposition 65, Business & Professions Code §§ 17200
25 et seq. and Business & Professions Code §§ 17500 et seq., related to each of the Rite Aid Releasees'
26 alleged failures to warn about exposures to or identification of Listed Chemicals contained in the
27 Products and for all actions or statements made by Rite Aid or its attorneys or representatives, in the
28

1 course of responding to alleged violations of Proposition 65, Business & Professions Code §§ 17200
2 or Business & Professions Code §§ 17500 by Rite Aid. Provided however, Plaintiff shall remain
3 free to institute any form of legal action to enforce the provisions of this Consent Judgment.

4 It is specifically understood and agreed that the Parties intend that Rite Aid's compliance
5 with the terms of this Consent Judgment resolves all issues and liability, now and in the future (so
6 long as Rite Aid complies with the terms of the Consent Judgment) concerning Rite Aid and the Rite
7 Aid Releasees' compliance with the requirements of Proposition 65, Business and Professions Code
8 §§ 17200 et. seq. and Business & Professions Code §§ 17500 et seq., as to the Listed Chemicals in
9 the Products.

10 **5.2 Rite Aid's Release of Plaintiff** Rite Aid waives all rights to institute any form of
11 legal action against Plaintiff, or their attorneys or representatives, for all actions taken or statements
12 made by Plaintiff and her attorneys or representatives, in the course of seeking enforcement of
13 Proposition 65, Business & Professions Code §§ 17200 et seq. or Business & Professions Code §§
14 17500 et seq. in this Action.

15 **6. COURT APPROVAL**

16 This Consent Judgment is not effective until it is approved and entered by the Court and shall
17 be null and void if, for any reason, it is not approved and entered by the Court within one year after
18 it has been fully executed by all Parties, in which event any monies that have been provided to
19 Plaintiff or her counsel pursuant to section 3 and/or section 4 above, shall be refunded within fifteen
20 (15) days.

21 **7. SEVERABILITY**

22 If, subsequent to court approval of this Consent Judgment, any of the provisions of this
23 Consent Judgment are held by a court to be unenforceable, the validity of the enforceable provisions
24 remaining shall not be adversely affected.

25 **8. ATTORNEYS' FEES**

26 In the event that a dispute arises with respect to any provision(s) of this Consent Judgment,
27 the prevailing party shall, except as otherwise provided herein, be entitled to recover reasonable and
28 necessary costs and reasonable attorneys' fees incurred from the resolution of such dispute.

1 **9. GOVERNING LAW**

2 The terms of this Consent Judgment shall be governed by the laws of the State of California
3 and apply within the State of California. In the event that Proposition 65 is repealed or is otherwise
4 rendered inapplicable by reason of law generally, or as to the Products specifically, then Rite Aid
5 shall have no further obligations pursuant to this Consent Judgment with respect to, and to the extent
6 that, those Products are so affected.

7 **10. NOTICES**

8 All correspondence and notices required to be provided pursuant to this Consent Judgment
9 shall be in writing and personally delivered or sent by: (1) first-class, registered, certified mail,
10 return receipt requested or (ii) overnight courier on either Party by the others at the following
11 addresses.

12 To Rite Aid:

13 Office of the General Counsel
14 Rite Aid Corporation
15 P.O. Box 3165
 Harrisburg, PA 17105

16 To Plaintiff:

17 Clifford A. Chanler
18 Chanler Law Group
 71 Elm Street, Suite 8
 New Canaan, CT 06840

19 Any Party, from time to time, may specify in writing to the other Party a change of address to
20 which all notices and other communications shall be sent.

21 **11. NO ADMISSIONS**

22 Nothing in this Consent Judgment shall constitute or be construed as an admission by Rite
23 Aid of any fact, finding, conclusion, issue of law, or violation of law, nor shall compliance with this
24 Consent Judgment constitute or be construed as an admission by Rite Aid of any fact, finding,
25 conclusion, issue of issue of law, or violation of law, such being specifically denied by Rite Aid.
26 Rite Aid reserves all of its rights and defenses with regard to any claim by any party under
27 Proposition 65 or otherwise. However, this section shall not diminish or otherwise affect Rite Aid's
28 obligations, responsibilities and duties under this Consent Judgment.

1 **12. COUNTERPARTS; FACSIMILE SIGNATURES**

2 This Consent Judgment may be executed in counterparts and by facsimile, each of which
3 shall be deemed an original, and all of which, when taken together, shall constitute one and the same
4 document.

5 **13. COMPLIANCE WITH HEALTH & SAFETY CODE § 25249.7(F)**

6 Plaintiff agrees to comply with the reporting form requirements referenced in Health &
7 Safety Code § 25249.7(f). Pursuant to regulations promulgated under that section, Plaintiff shall
8 present this Consent Judgment to the California Attorney General's Office within two (2) days after
9 receiving all of the necessary signatures. A noticed motion to enter the Consent Judgment will then
10 be served on the Attorney General's Office at least forty-five (45) days prior to the date a hearing is
11 scheduled on such motion in the Superior Court for the City and County of San Francisco unless the
12 Court allows a shorter period of time.

13 **14. ADDITIONAL POST EXECUTION ACTIVITIES**

14 The Parties shall mutually employ their best efforts to support the entry of this Agreement as
15 a Consent Judgment and obtain approval of the Consent Judgment by the Court in a timely manner.
16 The Parties acknowledge that, pursuant to Health & Safety Code § 25249.7, a noticed motion is
17 required to obtain judicial approval of this Consent Judgment. Accordingly, the Parties agree to file
18 a Joint Motion to Approve the Agreement ("Joint Motion"), the first draft of which Rite Aid's
19 counsel shall prepare, within a reasonable period of time after the Execution Date (i.e., not to exceed
20 fourteen (14) days unless otherwise agreed to by the Parties' counsel based on unanticipated
21 circumstances). Plaintiff's counsel shall prepare a declaration in support of the Joint Motion which s
22 hall, inter alia, set forth support for the fees and costs to be reimbursed pursuant to Section 4. Rite
23 Aid shall have no additional responsibility to Plaintiff's counsel pursuant to C.C.P. § 1021.5 or
24 otherwise with regard to reimbursement of any fees and costs incurred with respect to the
25 preparation and filing of the Joint Motion and its supporting declaration or with regard to Plaintiff's
26 counsel appearing for a hearing or related proceedings thereon.

1 **15. MODIFICATION**

2 This Consent Judgment may be modified only by: (1) written agreement of the Parties and
3 upon entry of a modified Consent Judgment by the Court thereon, or (2) motion of any Party as
4 provided by law and upon entry of a modified Consent Judgment by the Court. The Attorney
5 General shall be served with notice of any proposed modification to this Consent Judgment at least
6 fifteen (15) days in advance of its consideration by the Court.

7 **16. ENFORCEMENT OF CONSENT JUDGMENT**

8 16.1 Before moving to enforce the terms and conditions of Section 2 of this Consent
9 Judgment against Rite Aid with respect to an alleged violation occurring at a retail outlet (defined
10 below) located in California, Plaintiff and others must follow the procedures set forth in Section 16.2
11 through 16.4

12 16.2 In the event that Plaintiff and/or her attorneys, agents, assigns, or any other person
13 acting in the public interest under Health & Safety Code Section 25249.7(d) (hereinafter "Notifying
14 Person"), identify one or more retail stores in California operated by Rite Aid (hereinafter "retail
15 outlet") at which Products are sold which do not meet the requirements of this Consent Judgment,
16 such Notifying Person shall notify, in writing, Rite Aid of such alleged failure to comply (the
17 "Notice of Breach"). Within sixty (60) days of the date the alleged violation was observed, a Notice
18 of Breach shall be served by first class mail, with proof of service, to the persons set forth in Section
19 17, below. The Notice of Breach shall identify the date the alleged violation was observed and the
20 retail outlet in question, and reasonably describe the nature of the alleged violation with sufficient
21 detail to allow Rite Aid to determine the basis of the claim being asserted and the identities of the
22 type of Products to which those assertions apply, along with the name of the specific product alleged
23 to violate this Agreement.

24 16.3 In the event that the Notifying Person identifies a specific retail outlet, other than the
25 specific one identified in Section 16.2 of this Consent Judgment, selling other Products not
26 compliant with this Consent Judgment, such Notifying Person shall serve Rite Aid with another
27 Notice of Breach in the manner and with the information required in Section 16.2 and provide the
28 information required in Section 16.2.

16.4 The Notifying Person shall take no further action against Rite Aid unless the Notifying Person discovers, no less than thirty (30) days nor greater than six (6) months after service of the Notices of Breach served pursuant to Sections 16.2 and 16.3, another failure to comply with the type of Products previously identified by the Notifying Person whether or not the alleged failure to comply is at the same retail outlet(s) identified in the Notices of Breach served pursuant to Sections 16.2 and 16.3

17. **AUTHORIZATION**

The undersigned are authorized to execute this Consent Judgment on behalf of their respective Parties and have read, understood and agree to all of the terms and conditions of this Consent Judgment.

AGREED TO:

Date: _____

By: _____
Plaintiff Whitney R. Leeman, Ph.D

AGREED TO:

Date: November 19, 2004

By: [Signature]
Defendant Rite Aid Corporation

APPROVED AS TO FORM:

Date: _____

CHANLER LAW GROUP

By: _____
Stephen S. Sayad
Attorneys for Plaintiff
WHITNEY R. LEEMAN, Ph.D.

APPROVED AS TO FORM:

Date: 11/19/04

KELLY, HEALIHY & KLEIN LLP

By: [Signature]
Jonathan Allan Klein
Attorneys for Defendant RITE AID
CORPORATION

IT IS SO ORDERED.

Date: _____

JUDGE OF THE SUPERIOR COURT

STIPULATION AND [PROPOSED] ORDER RE: CONSENT JUDGMENT

16.4 The Notifying Person shall take no further action against Rite Aid unless the Notifying Person discovers, no less than thirty (30) days nor greater than six (6) months after service of the Notices of Breach served pursuant to Sections 16.2 and 16.3, another failure to comply with the type of Products previously identified by the Notifying Person whether or not the alleged failure to comply is at the same retail outlet(s) identified in the Notices of Breach served pursuant to Sections 16.2 and 16.3

17. **AUTHORIZATION**

The undersigned are authorized to execute this Consent Judgment on behalf of their respective Parties and have read, understood and agree to all of the terms and conditions of this Consent Judgment.

AGREED TO:

Date: _____

By: _____
Plaintiff Whitney R. Leeman, Ph.D

AGREED TO:

Date: _____

By: _____
Defendant Rite Aid Corporation

APPROVED AS TO FORM:

Date: _____

CHANLER LAW GROUP

By: Stephen S. Sayad
Stephen S. Sayad
Attorneys for Plaintiff
WHITNEY R. LEEMAN, Ph.D.

APPROVED AS TO FORM:

Date: _____

KELLY, HERLIHY & KLEIN LLP

By: _____
Jonathan Allan Klein
Attorneys for Defendant RITE AID
CORPORATION

IT IS SO ORDERED.

Date: _____

JUDGE OF THE SUPERIOR COURT

1 16.4 The Notifying Person shall take no further action against Rite Aid unless the Notifying
2 Person discovers, no less than thirty (30) days nor greater than six (6) months after service of the
3 Notices of Breach served pursuant to Sections 16.2 and 16.3, another failure to comply with the type
4 of Products previously identified by the Notifying Person whether or not the alleged failure to
5 comply is at the same retail outlet(s) identified in the Notices of Breach served pursuant to Sections
6 16.2 and 16.3

7 **17. AUTHORIZATION**

8 The undersigned are authorized to execute this Consent Judgment on behalf of their
9 respective Parties and have read, understood and agree to all of the terms and conditions of this
10 Consent Judgment.

11 **AGREED TO:**

12 **AGREED TO:**

13 Date: _____

14 Date: _____

15 By: Whitney R. Leeman
16 Plaintiff Whitney R. Leeman, Ph.D

17 By: _____
18 Defendant Rite Aid Corporation

19 **APPROVED AS TO FORM:**

20 **APPROVED AS TO FORM:**

21 Date: _____

22 Date: _____

23 CHANLER LAW GROUP

24 KELLY, HERLIHY & KLEIN LLP

25 By: _____
26 Stephen S. Sayad
27 Attorneys for Plaintiff
28 WHITNEY R. LEEMAN, Ph.D.

By: _____
Jonathan Allan Klein
Attorneys for Defendant RITE AID
CORPORATION

IT IS SO ORDERED.

Date: _____

JUDGE OF THE SUPERIOR COURT

1 16.4 The Notifying Person shall take no further action against Rite Aid unless the Notifying
2 Person discovers, no less than thirty (30) days nor greater than six (6) months after service of the
3 Notices of Breach served pursuant to Sections 16.2 and 16.3, another failure to comply with the type
4 of Products previously identified by the Notifying Person whether or not the alleged failure to
5 comply is at the same retail outlet(s) identified in the Notices of Breach served pursuant to Sections
6 16.2 and 16.3

7 **17. AUTHORIZATION**

8 The undersigned are authorized to execute this Consent Judgment on behalf of their
9 respective Parties and have read, understood and agree to all of the terms and conditions of this
10 Consent Judgment.

11 **AGREED TO:**

AGREED TO:

12
13 Date: _____

Date: _____

14
15 By: _____
16 Plaintiff Whitney R. Leeman, Ph.D

By: _____
Defendant Rite Aid Corporation

17
18 **APPROVED AS TO FORM:**

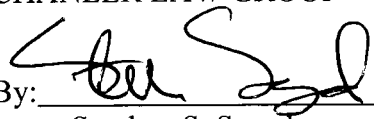
APPROVED AS TO FORM:

19 Date: November 18, 2004

Date: _____

20
21 CHANLER LAW GROUP

KELLY, HERLIHY & KLEIN LLP

22 By: 
23 Stephen S. Sayad
24 Attorneys for Plaintiff
25 WHITNEY R. LEEMAN, Ph.D.

By: _____
Jonathan Allan Klein
Attorneys for Defendant RITE AID
CORPORATION

26 **IT IS SO ORDERED.**

27 Date: _____

JUDGE OF THE SUPERIOR COURT

Exhibit A

All mugs, bowls and tableware with colored designs and/or artwork including but not limited to:

<u>Evidence No.</u>	<u>Manufacturer</u>	<u>Type</u>	<u>Product</u>	<u>UPC: Codes</u>
E640.1.1	Unknown	Design/Exterior	Vessel, Drinking	None
E640.1.2	Unknown	Design/Exterior	Vessel, Drinking	None
E460.3.3	Kennex (HK) Ltd.	Design/Exterior	Vessel, Drinking	
E640.0.1	Kennex (HK) Ltd.	Design/Exterior	Decorative Product	
E640.0.2	Kennex (HK) Ltd.	Design/Exterior	Vessel, Drinking	
E640.2.1	Kennex (HK) Ltd.	Design/Exterior	Vessel, Drinking	
E640.2.2	Kennex (HK) Ltd.	Design/Exterior	Vessel, Drinking	
E640.2.3	Kennex (HK) Ltd.	Design/Exterior	Vessel, Drinking	
E640.3.1	Kennex (HK) Ltd.	Design/Exterior	Vessel, Drinking	
E640.3.2	Kennex (HK) Ltd.	Design/Exterior	Vessel, Drinking	
E640.4.1	Kennex (HK) Ltd.	Design/Exterior	Vessel, Food	
E640.4.2	Kennex (HK) Ltd.	Design/Exterior	Vessel, Food	
E640.5.1	Kennex (HK) Ltd.	Design/Exterior	Decorative Product	
LS21.5	Unknown	Design/Exterior	Vessel, Drinking	None
LS21.6	Unknown	Design/Exterior	Vessel, Drinking	None
LS21.7	Unknown	Design/Exterior	Vessel, Drinking	None
LS21.8	Unknown	Design/Exterior	Vessel, Drinking	None
LS21.9	Unknown	Design/Exterior	Vessel, Drinking	None
C290.1.1	East Bay Imports	Design/Exterior	Vessel, Drinking	
C290.2.1	East Bay Imports	Design/Exterior	Vessel, Drinking	8 71231 00060 8
C290.2.2	East Bay Imports	Design/Exterior	Vessel, Drinking	8 71231 00060 8
C290.3.1	East Bay Imports	Design/Exterior	Decorative Product	
C290.3.2	East Bay Imports	Design/Exterior	Decorative Product	
C290.3.3	East Bay Imports	Design/Exterior	Decorative Product	
C290.4.1	East Bay Imports	Design/Exterior	Decorative Product	
C290.4.2	East Bay Imports	Design/Exterior	Decorative Product	
C290.4.3	East Bay Imports	Design/Exterior	Decorative Product	
C290.5.1	East Bay Imports	Design/Exterior	Vessel, Food	
C290.5.2	East Bay Imports	Design/Exterior	Vessel, Food	
C290.5.3	East Bay Imports	Design/Exterior	Vessel, Food	
C290.6.1	East Bay Imports	Design/Exterior	Vessel, Food	
C290.6.2	East Bay Imports	Design/Exterior	Vessel, Food	
C290.6.3	East Bay Imports	Design/Exterior	Vessel, Food	
C290.7.1	East Bay Imports	Design/Exterior	Vessel, Drinking	
C290.7.2	East Bay Imports	Design/Exterior	Vessel, Drinking	

Vendor Name	Item #	Description
Atico Intl HK Ltd-		
Atico Overseas	932677-2003 XHW MUG - Hand painted	4-1/2in High; Santa mug; wording: "HO HO HO"
Atico Intl HK Ltd-		
Atico Overseas		SB COFFEE MUG CERAMIC; W/BEACHPOINT NEW ENGLAND DESIGN 14 OZ
Atico Intl HK Ltd-	997921	STONEWARE ELECTRIC POTPOURRI WARMER
Atico Overseas		
Atico Intl HK Ltd-	997916	STONEWARE PIZZA BAKING SET
Atico Overseas		

STIPULATION AND [PROPOSED] ORDER RE: CONSENT JUDGMENT

1	Buchase (HK) Ltd.	929562-2002 XHW Mug w/Lid - Santa Design - Dolomite
2	Buchase (HK) Ltd.	929561-2002 XHW Mug - Snowman Design - Dolomite
3	DAN DEE INTL LTD	929545-2002 SMB Mug Red-White-Blue with Stars Ceramic 20oz
4	DAN DEE INTL LTD	999273-2002 100th Anniversay Bear In Mug - 9"
5	DAN DEE INTL LTD	931234 SSP Springtime Animal In Mug - Acrylic Plush - 7 in.;
6	DAN DEE INTL LTD	930585-2003 SB Mug USA Decorated - Ceramic - 20 oz.
7	DAN DEE INTL LTD	935299 KK MUG AND STUFFED TOY; 7" ANIMALS IN MUGS ASSORTMENT OF 3 BEARS
8	DAN DEE INTL LTD	934130-2004 SB MUG CERAMIC SPRING OCEAN 4IN; 2 ASSORTED: PINK WITH BLUE HANDLE
9	DAN DEE INTL LTD	934206-2004 SB MUG FLORAL CERAMIC 5IN
10	DAN DEE INTL LTD	934131-2004 SB MUG CERAMIC SPRING BRIGHT 12OZ ; 2 ASSORTED: YELLOW - ORANGE WITH RED
11	DAN DEE INTL LTD	934128-2004 SB MUG CERAMIC FLOWER 5IN; 2 ASSORTED: YELLOW WITH GREEN, PINK WITH GREEN
12	DAN DEE INTL LTD	934010-2004 VNV STUFFED ANIMAL IN MUG 9IN; assorted; monkey "wild thing", bear "hot stuff", tiger
13	DAN DEE INTL LTD	936748 XHD MUG WITH SNOWMAN, 16oz
14	DAN DEE INTL LTD	936877 XHD MUG, CERAMIC, XMAS DECORATED, 12 oz; W/BEAR DESIGN
15	DAN DEE INTL LTD	KK MUG AND STUFFED TOY
16	DAN DEE INTL LTD	938862 SB 4" TROPICAL CERAMIC MUG
17	DAN DEE INTL LTD	938364 SB SER MUG TULIP ROSES 6IN
18	DAN DEE INTL LTD	938362 SB SOL CERAMIC MUG 12 OZ DECORATED; 2 ASSORTED STRIPES, SPICE OF LIFE
19	DAN DEE INTL LTD	937880 VNV TEDDY BEAR IN MUG 8IN
20	DAN DEE INTL LTD	937891 VNV PLUSH W/CANDY IN MINI MUG
21	East Bay Import Co	932317-2003 HAR Bowl w/ Rack Deep Grape Pattern 12 In.
22	East Bay Import Co	932309-2003 HAR Bowl Grape Pattern Embossed 8.25 In.
23	East Bay Import Co	932332-2003 HAR Mug Pumpkin/Gourd
24	East Bay Import Co	932323-2003 HAR Mug Grape Pattern 14 oz.
25	East Bay Import Co	936083 HAL Sculpted Mugs; 4 ASSORTED: Vampire, Monster, Ghost, Witch
26	East Bay Import Co	935936 HAR Mug 20 oz. Fruit Design
27	East Bay Import Co	934271-2004 SB SERVING BOWL DOLOMITE 11.75 in DIA
28	East Bay Import Co	934272-2004 SB BOWL WITH FLORAL PATTERN CERAMIC 6 in DIA
29	East Bay Import Co	934273-2004 SB MUG 5.5in CERAMIC DIA
30	East Bay Import Co	934274-2004 SB FLOWER MUG DOLOMITE 4 in H
31	East Bay Import Co	934287-2004 SB BOWL FOOTED FLOWER DOLOMITE
32	East Bay Import Co	934289-2004 SB BOWL W/FLORAL DESIGN CERAMIC 8 in DIA.
33	East Bay Import Co	938711 SB Mug Assortment 20oz; Spring Rose and Spring Meadow
34	East Bay Import Co	938727 SB Mug Assortment 9oz; Spring Rose and Spring Meadow
35	East Bay Import Co	938719 SB Footed Mug Assortment; Spring Rose and Spring Meadow
36	East Bay Import Co	938728 SB Footed Flower Bowl Assortment; Spring Rose and Spring Meadow
37	East Bay Import Co	935947 Har Bowl w/Leaft design Fruit Colors
38	East Bay Import Co	317407 20PC Florence Porcelain Dinner
39	East Bay Import Co	317487 12PC Double Platium Dinner Set
40	East Bay Import Co	317318 Seville 20PC Decorated Dinner Set
41	East Bay Import Co	317316 12PC Linea Di ORO Dinner Set
42	East Bay Import Co	317396 Stoneware Mixing Bowl Set
43	East Bay Import Co	317296 7" Sardina Blue All Purpose Bowl
44	East Bay Import Co	317381 7" Sardina Green All Purpose Bowl
45	East Bay Import Co	317383 5.5" Sardinia Green Footed Bowl
46	East Bay Import Co	317303 5.5" Sardinia Blue Footed Bowl
47	East Bay Import Co	317302 12oz Sardinia Blue Mug
48	East Bay Import Co	317382 12oz Sardinia Green Mug
49	East Bay Import Co	317240 Stoneware Color Glazed Jumbo Mug
50	East Bay Import Co	317266 San Remo Cereal Bowl

STIPULATION AND [PROPOSED] ORDER RE: CONSENT JUDGMENT

1	East Bay Import Co	317279 San Remo Pasta Bowl
2	East Bay Import Co	317317 16pc Sorrento Dinner Set
3	East Bay Import Co	317355 Tuscany Cereal Bowl
4	East Bay Import Co	317369 Tuscany Pasta Bowl
5	East Bay Import Co	317473 Bistro Oversized Cereal Bowl
6	East Bay Import Co	317497 16pc Milano Dinner Set
7	East Bay Import Co	317498 16pc Capri Dinner set
8	East Bay Import Co	317263 San Remo Mug
9	East Bay Import Co	317343 Tuscany Mug
10	East Bay Import Co	317486 Bistro Oversized 16oz Mug
11	East Bay Import Co	16PC STONEWARE BLUE BANDED DINNER SET
12	East Bay Import Co	SPRING FLORAL / HORTENSIA STONEWARE DECORATED MUG - 4 STYLES ASST.
13	East Bay Import Co	STONEWARE COLOR GLAZED JUMBO MUG - 4 COLORS ASST.
14	East Bay Import Co	WHITE GLAZED STONEWARE POPCORN BOWL 4" X 5.5" DIA.
15	East Bay Import Co	WHITE GLAZED STONEWARE POPCORN BOWL 7.25" X 9" DIA.
16	East Bay Import Co	12OZ SAN REMO STONEWARE HANDPAINTED MUG
17	East Bay Import Co	10" SAN REMO EARTHENWARE HANDPAINTED DEEP BOWL
18	East Bay Import Co	5.5" SAN REMO STONEWARE HANDPAINTED CEREAL BOWL
19	East Bay Import Co	9" SAN REMO STONEWARE HANDPAINTED PASTA BOWL
20	East Bay Import Co	7" SARDINIA BLUE STONEWARE TWO TONE ALL PURPOSE BOWL
21	East Bay Import Co	12OZ SARDINIA BLUE STONEWARE MUG
22	East Bay Import Co	5.5" SARDINIA BLUE STONEWARE TWO TONE FOOTED BOWL
23	East Bay Import Co	20PC SEVILLE DECORATED PORCELAIN DINNER SET
24	East Bay Import Co	12PC LINEA DI ORO STONEWARE DINNER SET
25	East Bay Import Co	16PC SORRENTO STONEWARE HANDPAINTED DINNER SET
26	East Bay Import Co	STONEWARE COLOR GLAZED MUG - 4 COLOR ASST.
27	East Bay Import Co	SERIE DI PASTA STONEWARE DECORATED S/5 PASTA BOWLS
28	East Bay Import Co	SERIE DI PASTA STONEWARE DECORATED MUGS - 4 ASST.
29	East Bay Import Co	16PC VENICE STONEWARE DINNER SET
30	East Bay Import Co	12OZ TUSCANY STONEWARE HANDPAINTED MUG
31	East Bay Import Co	10" TUSCANY EARTHENWARE HANDPAINTED DEEP BOWL
32	East Bay Import Co	5.5" TUSCANY EARTHENWARE HANDPAINTED CEREAL BOWL
33	East Bay Import Co	9" TUSCANY STONEWARE HANDPAINTED PASTA BOWL
34	East Bay Import Co	7" SARDINIA GREEN STONEWARE TWO TONE ALL PURPOSE BOWL
35	East Bay Import Co	12OZ SARDINIA GREEN STONEWARE MUG
36	East Bay Import Co	5.5" SARDINIA GREEN STONEWARE TWO TONE FOOTED BOWL
37	East Bay Import Co	TRANSPARENT GLAZED STONEWARE SET/3 MIXING BOWL
38	East Bay Import Co	20PC FLORENCE PORCELAIN SPLIT DECAL DINNER SET
39	East Bay Import Co	STONEWARE DECORATED MUGS - 4 STYLES ASST.
40	East Bay Import Co	STONEWARE DECORATED MUGS - 4 STYLES ASST.
41	East Bay Import Co	STONEWARE DECORATED MUGS -4 STYLES ASST.
42	East Bay Import Co	10" STONEWARE COLOR BAND DEEP BOWL
43	East Bay Import Co	STONEWARE COLOR BAND SOUP BOWL
44	East Bay Import Co	16OZ STONEWARE COLOR BAND MUG
45	East Bay Import Co	16PC STONEWARE HANDPAINTED MILANO DINNER SET
46	East Bay Import Co	16PC STONEWARE HANDPAINTED CAPRI DINNER SET
47	KENNEX HK LTD	930747-2003 SB Mug - Victorian Lace Ceramic; Floral Stripes and Spring Hydrangea
48	KENNEX HK LTD	930710-2003 SB Bowl - Victorian Lace Ceramic- 10 In.; Floral Stripes and Spring Hydrangea
49	KENNEX HK LTD	930709-2003 SB Mug - Victorian Lace - Spring Floral Ceramic
50	KENNEX HK LTD	930764-2003 SB Mug - Victorian Lace - Spring Floral Ceramic
51	KENNEX HK LTD	930754-2003 SB Mug - Victorian Lace - Spring Breeze Ceramic
52	KINGSBRIDGE INTL	933713-2003 XDW 16 Pc Dinnerware Set Xmas Tree Design

STIPULATION AND [PROPOSED] ORDER RE: CONSENT JUDGMENT

1	INC	
2	KINGSBRIDGE INTL	
3	INC	933707-2003 XDW Serving Bowl Xmas Tree Design
4	KINGSBRIDGE INTL	
5	INC	932664-2003 XHW MUG Hand Painted 16oz; 4 assorted styles
6	KINGSBRIDGE INTL	
7	INC	937363 XGW Mug with Coaster - Ceramic; Computers, Tennis, Golf, Bowling, Fishing, Baseball
8	LONG RICH LTD	938350 SB Mug Fruit 4-1/4in H; FRUIT DESIGN
9	LONG RICH LTD	938352 SB Mug Fruit 5-7/8in H
10	NEW ATICO INTL	
11	LTD	930521-2003 SB Decorative Mug w/ Flower On Handle - Dolomite - 4.25 In.
12	NEW ATICO INTL	
13	LTD	932683-2003 XHW MUG - Dolomite Hand painted 20oz; SANTA "PEACE", SNOWMAN
14	NEW ATICO INTL	
15	LTD	934318-2004 SB MUG DOLOMITE 14 OZ; ASSORTED DESIGNS:(A)FLOWER,(B) PALM TREE
16	NEW ATICO INTL	
17	LTD	937418 XHW Mug 22 Oz XMAS snow flurry; *WITH HANDPAINTED SNOW FLURRIES
18	NEW ATICO INTL	
19	LTD	937417 XHW Mug 20 Oz XMAS patchwork; WITH EMBOSSED PATCHWORK DESIGN
20	NEW ATICO INTL	
21	LTD	SB MUG DOLOMITE; LIGHTHOUSE DESIGN
22	NEW ATICO INTL	
23	LTD	938582 SB MUG DOLMITE; 3 ASSORTED FLOWER DESIGNS, PINK, PURPLE, YELLOW
24	NEW ATICO INTL	
25	LTD	997788-2002 XHW Mug & Warmer Set
26	PUBLICATIONS	
27	INTL LTD.	929215-2002 XGW Holiday Friendship Mug Gift Set; 3 Assorted: Santa, Bear Angel, Snowman