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Clifford A. Chanler, State Bar No. 135534  
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CHANLER & ASSOCIATES  
1700 Montgomery Street, Suite 110  
San Francisco, CA 94111  
(415) 391-1122

Attorneys for Plaintiff  
AS YOU SOW

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

AS YOU SOW, a non-profit organization,  
Plaintiff,  
v.  
RUBATEX CORPORATION, and DOES 1 through 1000,  
Defendants,

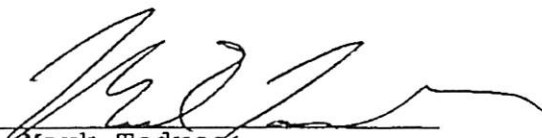
No. 162867

STIPULATION FOR ENTRY OF JUDGMENT AND JUDGMENT ON STIPULATION

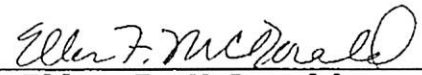
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1  
2 IT IS HEREBY STIPULATED, by and between plaintiff As  
3 You Sow and defendant Rubatex Corporation, through their  
4 respective representatives, that judgment in the above-  
5 entitled action be entered in accordance with the terms of the  
6 settlement agreement between the parties, which is attached  
7 hereto as Exhibit A.

8  
9 Dated: April 25, 1995


10 by:   
11 Mark Todres  
12 Attorneys for Plaintiff  
13 AS YOU SOW

14 Dated: April 24, 1995

15 by:   
16 Ellen F. McDonald  
17 Attorneys for Defendant  
18 RUBATEX CORPORATION

19 IT IS HEREBY ORDERED that judgment be entered in  
20 accordance with the terms of the stipulation between the  
21 parties.

22  
23 Dated: April 27, 1995

24   
25 Judge of the Superior Court

# **Exhibit A**

SETTLEMENT AGREEMENT

On April \_\_, 1995 in San Francisco, California, **As You Sow** ("AYS") and **Rubatex Corporation** ("Rubatex") 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

Rubatex is a Virginia based company that has been manufacturing and distributing adhesive products, some of which contain 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 thus became subject to warning requirements pursuant to Health & Safety Code §25249.6 on January 1, 1992; and

On September 2, 1994, AYS served Rubatex with a document entitled "60-Day Notice" which provided Rubatex 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 toluene; and

On January 24, 1995, AYS filed a complaint entitled As You Sow v. Rubatex Corporation, et al. (No. 162867) in the Marin Superior Court, naming Rubatex 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 toluene from certain Rubatex products; and

This agreement will cover all adhesive products containing toluene which Rubatex sells or distributes, or has sold or distributed, in California since January 1, 1992 (the "Products").

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

1. **Product Labeling.** Beginning immediately, Rubatex shall initiate revisions to its current labels for the Products. Rubatex shall use its best efforts to ensure that all Products are relabeled as quickly as possible, however, all products shall be relabeled no later than July 31, 1995. The new labels for each Product sold in California shall contain the following statement:

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

1.1. 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.

2. **Current Production.** In an effort to ensure that individuals receive Proposition 65 warnings during the period while Rubatex produces labels in accordance with ¶1, Rubatex agrees by May 15, 1995, it shall affix warning stickers to any and all Products it manufactures, distributes, or sells and which Rubatex knows, or has reason to know, will enter the State of California. The stickers shall be printed in black ink on a white background, be at least 5 cm by 2 cm, and display one the following statement:

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

3. **Interim Warning Materials.** In an effort to ensure that individuals receive Proposition 65 warnings during the period while Rubatex produces labels in accordance with ¶1, Rubatex agrees that, by April 30, 1995, it shall provide interim warning materials to its customers that Rubatex knows or has reason to believe sell, use or distribute the Products in California in an effort to ensure that users receive Proposition 65 warnings for Products that have not been labelled pursuant to ¶1. The interim warning materials shall include sufficient warning stickers, a Notice letter providing instructions for the placement of the stickers and placard, and a Notice and Acknowledgment postcard. The Notice letter is attached hereto as Exhibit A. The Notice and Acknowledgment postcard is attached hereto as Exhibit B. After 15 days, if a customer has not returned the Notice and Acknowledgement postcard, Rubatex shall suspend shipments of the Products to such customer until such customer agrees to place the stickers on the Products.

4. **MSDS Revisions.** Beginning immediately, Rubatex will initiate revisions to its current MSDSs for the 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.

5. **Settlement Amount.**

5.1. **Restitution and Investigation Costs.** Rubatex agrees to pay \$13,500 to AYS upon execution of this Agreement. The restitutionary component of this payment, which is made pursuant to Business & Professions Code §17203, shall be distributed to the AYS Proposition 65 Enforcement Fund and the Bay Area Nuclear Waste Coalition. AYS' Proposition 65 Enforcement Fund shall utilize these funds to continue its ongoing research into workplace exposures to Proposition 65-listed chemicals. The BAN Waste Coalition is working to halt dumping of nuclear waste in certain areas of California. 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 Rubatex's attention, litigating and negotiating a settlement in the public interest. It is clearly noted that Rubatex does not cause or contribute to nuclear waste.

6. **AYS Release.** AYS, by this Agreement, waives all rights to institute action against Rubatex, its distributors or retailers which sell the Products, whether under Proposition 65, Business & Profession Code §§17200 et seq., or any other statute or common law claim based on Rubatex's failure to warn consumers about exposure to Proposition 65 chemicals from any of the Products.
7. **Rubatex Release.** Rubatex, 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 Rubatex.
8. **Stipulated Judgment.** The parties shall file a stipulated judgment to be approved pursuant to CCP §664.6 by the Marin County Superior Court in accordance with the terms of this agreement.
9. **Unenforceability.** 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.
10. **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.

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

12. **Correspondence.**

All correspondence to AYS shall be mailed to:

Mark Todres, Esq.  
Chanler & Associates  
1700 Montgomery Street, Suite 110  
San Francisco, CA 94111

All correspondence to Rubatex shall be mailed to:

Michael McGovern, Esq.  
McGuire, Woods, Battle & Boothe  
One James Center  
901 East Cary Street  
Richmond, VA 23219

13. **No Admission.** Nothing in this Agreement shall be construed as an admission by Rubatex 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 Rubatex 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 Rubatex under this Agreement.

14. **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.

15. **Future Enforceability.** In the event that Proposition 65, California Health & Safety Code §25249.5 et seq., is amended or repealed, notwithstanding the terms of this agreement, Rubatex will not be required to provide warnings regarding the Products pursuant to paragraphs 1 through 4 of this agreement. This paragraph shall in no way effect Rubatex's other obligations pursuant to this agreement.

AGREED TO:

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

*Sergio*  
As You Sow

Dated: \_\_\_\_\_

*4/21/95*

AGREED TO:

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

*Frank J. Quill, Vice Pres.*  
The Rubatex Corporation

Dated: \_\_\_\_\_

*April 21, 1995*



EXHIBIT A

[Rubatex Letterhead]

IMPORTANT LEGAL NOTICE

Date:

Attention: All Customers of The Rubatex Corporation

Subject: California Proposition 65 Warnings for products  
containing Carcinogens and Toluene

\*\*\*\*\*

This letter is to advise you that the Rubatex products listed in Attachment A to this letter expose users of those products to toluene, a chemical listed by the State of California as known to cause birth defects or other reproductive harm.

Pursuant to the Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65"), the users of the products listed on Attachment A must be given clear and reasonable warning of the reproductive toxicity of the toluene contained therein.

Although Rubatex intends to begin re-labeling the products listed on Attachment A with proper warnings, it has not yet done so. Until the labeling change is completed, you must take certain actions to ensure that users of the products receive Proposition 65 warnings.

The Rubatex Corporation requests that you affix the enclosed warning stickers to the products listed on Attachment A in the manner described below. The following materials are enclosed to enable you to provide these important health hazard warnings:

- (1) Warning Stickers; and
- (2) Attachment A listing the products that require the stickers; and
- (3) A return postcard indicating that you have received the enclosed materials and will comply with the warning requirements of Proposition 65 for the products listed on Attachments A

You should affix a warning sticker to the container, cap, or label of each product listed on Attachments A which does not have a Proposition 65 warning on its label. The sticker must

be affixed so that it is conspicuous and likely to be read and understood by an ordinary individual under customary conditions of use.

Failure to provide a Proposition 65 warning for the products listed in Attachment A may subject you to legal action by the California Attorney General, wherein monetary penalties of up to \$2,500 per violation could be sought.

Please return the enclosed postcard affirming your compliance with Proposition 65's warning requirements for the listed products. If, within 15 days of mailing, we do not receive the return post card with your signature indicating that you have received the enclosed materials and are prepared to provide the required Proposition 65 warnings, we will stop supplying you with any of the products on the enclosed lists until such time as you will agree in writing to provide the required warnings or until the products have been labeled by us with the proper warnings.

Should you have any questions or concerns about this matter, please do not hesitate to contact \_\_\_\_\_ at 1-800-XXX-XXXX by phone, or by mail at the above address. In addition, we will be glad to supply additional warning stickers and/or signs if requested.

Sincerely,

\_\_\_\_\_  
Title

EXHIBIT B

RETURN POSTCARD FROM CUSTOMERS

\* \* \* \*

The undersigned certifies that this customer has received (a) the Important Legal Notice letter regarding Proposition 65 warning requirements, (b) Attachment A which list the Rubatex products requiring a Proposition 65 warning, and (c) warning stickers. The undersigned further certifies that this customer will comply with Proposition 65 warning requirements by affixing the warning stickers provided to them in the manner directed.

\_\_\_\_\_  
[Name & Title]

\_\_\_\_\_  
[Customer Name]

\_\_\_\_\_  
[Address]  
\_\_\_\_\_

Please send me \_\_\_\_\_ additional stickers.