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Michael DiPirro

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Professional Corporation  
8 1999 Harrison Street  
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9 **Mailing Address:**  
10 P.O. Box 2084  
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12 Facsimile: (510) 273-8832

13 Attorneys for Defendant  
Sunex International, Inc.

15 SUPERIOR COURT OF CALIFORNIA – COUNTY OF ALAMEDA

16 MICHAEL DiPIRRO,

17 Plaintiff,

18 vs.

19 SUNEX INTERNATIONAL, INC. and  
20 DOES 1 through 1000,

21 Defendants.

No. 01-023331

**CONSENT JUDGMENT**

22 **1. INTRODUCTION:**

23 1.1 Michael DiPirro ("DiPirro") is an individual residing in San  
24 Francisco, California, who seeks to promote awareness of exposures to toxic  
25 chemicals and improve human health by reducing or eliminating hazardous  
26 substances contained in consumer and industrial products.

27 1.2 For purposes of this Consent Judgment, the term "Sunex" shall  
28 mean Sunex International, Inc. and Sunex Tools.

1           1.3 DiPirro alleges that Sunex has, since July 3, 1997,  
2 manufactured, distributed and sold in the State of California one or more of the  
3 products identified in Exhibit A (hereafter "Products") whose customary use and  
4 application are likely to produce fumes, gases or dust which contain one or more  
5 chemicals listed pursuant to the Safe Drinking Water and Toxic Enforcement Act of  
6 1986, California Health & Safety Code §§25249.5 et seq., also known as  
7 Proposition 65. The chemicals to which an exposure is alleged are lead (or lead  
8 compounds), crystalline silica, arsenic and /or chromium (hexavalent compounds)  
9 (the "Listed Chemicals").

10           1.4 On July 3, 2001 DiPirro first served Sunex and other public  
11 enforcement agencies with a document entitled "60-Day Notice of Violation" which  
12 provided Sunex and such public enforcers with notice that Sunex was allegedly in  
13 violation of Health & Safety Code §25249.6 for failing to warn that the Products  
14 expose users in California to one or more of the Listed Chemicals.

15           1.5 On September 12, 2001, DiPirro filed a complaint entitled  
16 Michael DiPirro v. Sunex international, Inc. et al. in the Alameda County Superior  
17 Court, naming Sunex as a defendant and alleging violations of Business &  
18 Professions Code §17200 and Health & Safety Code §25249.6 in the interest of  
19 the general public in California who allegedly have been exposed to one or more of  
20 the Listed Chemicals produced by the Products. On October 20, 2001, Sunex filed  
21 and served its answer to that Complaint.

22           1.6 Sunex denies the material factual and legal allegations contained  
23 in DiPirro's above mentioned 60-Day Notice of Violation and Complaint and  
24 maintains that all products distributed or sold by Sunex in California including, but  
25 not limited to, the Products, have been and are in compliance with all laws.

26           1.7 Nothing in this Consent Judgment shall be construed as an  
27 admission by Sunex of any fact, finding, issue of law, or violation of law, nor shall  
28 compliance with this Consent Judgment constitute or be construed as an admission

1 by Sunex of any fact, finding, conclusion, issue of law or violation of law.  
2 However, this paragraph shall not diminish or otherwise affect the obligations,  
3 responsibilities and duties of Sunex under this Agreement.

4 1.8 For purposes of this Consent Judgment, the term "Effective  
5 Date" shall mean December 20, 2001.

6  
7 **2. PRODUCT WARNINGS**

8 **2.1 Products For Which Proposition 65 Warnings Are Not Required:**

9 Sunex shall not have any Proposition 65 warning obligations for the Products that  
10 are: (1) manufactured before March 31, 2002; (2) distributed or shipped for sale  
11 outside the State of California; or (3) manufactured outside of the State of  
12 California, within the meaning of the June 6, 1997 U.S. Department of Labor,  
13 Occupational Safety and Health Administration, "Approval California State Standard  
14 on Hazard Communication Incorporating Proposition 65", 62 Federal Register  
15 31159-31181 (i.e. occupational exposures) and not sold to consumers. Sunex shall  
16 have no Proposition 65 warning obligations for those products (accessories,  
17 building materials and hand tools) that Sunex manufactures, distributes or sells in  
18 California, if any, and for which the Consent Judgment in People v. Ace Hardware,  
19 et. al., San Francisco Superior Court No. 995893 (a copy of the face page of this  
20 case is attached as Exhibit B) has determined that no Proposition 65 warning is  
21 required.

22  
23 **2.2. Products For Which Proposition 65 Warnings Are Required:**

24 Subject to Section 2.1, Sunex shall not, after March 31, 2002, knowingly distribute  
25 or sell in California any Products that contain Listed Chemicals or whose customary  
26 use and application produce fumes, gases or dust that contain Listed Chemicals,  
27 unless such Products comply with Section 2.3.

1                   **2.3 Methods Of Warning:** Sunex may satisfy any Section 2.2  
2 warning obligations by utilizing either of the warning methods identified in Section  
3 2.3(a) or 2.3(b). The warnings identified in Sections 2.3(a) and 2.3(b) shall be  
4 prominent and displayed with such conspicuousness, as compared with other  
5 words, statements, or designs, as to render them likely to be read and reasonably  
6 understood by ordinary individuals under customary conditions of purchase or use.

7  
8                   a.       **Warnings In Owner's Manuals:** Including a warning in the  
9 Product's Owners Manual if all of the following conditions are met:

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11                               1.       Sunex intends that the Owners Manual will be  
12 provided with the original Product packaging to the initial consumer/purchaser;

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14                               2.       At least one other safety warning appears in the  
15 Owner's Manual;

16  
17                               3.       All or a substantial portion of operation  
18 instructions, if any, are contained in the Owner's Manual;

19  
20                               4.       The warning is located in one of the following  
21 places in the Owner's Manual: the outside of the front cover, the inside of the front  
22 cover, the first page other than the cover or the outside of the back cover.  
23 Alternatively, the warning may be included in a safety warning section consistent  
24 with specifications UL 745-1 or UL 45, issued by Underwriter's Laboratories, Inc.,  
25 as amended. The warning may either be printed in the manual or contained in a  
26 durable label or sticker affixed to the manual;

27  
28                               5.       The language of the warning is that set forth in

1 Exhibit D;

2

3

4 6. The warning is printed in a font no smaller than the  
5 font used for other safety warnings in the Owner's Manual; and

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7 7. The Product contains a durable label or sticker  
8 directing the operator's attention to the Owner's Manual.

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10 b. **Warning on the Product:** Having a durable label containing  
11 a warning affixed or attached to the Product in a location that can be seen by the  
12 Product's user under normal circumstances of use, with the language of the  
13 warning being either: (i) that set forth in Exhibit C; or (ii) equivalent to the language  
14 in Exhibit C and one that complies with Section 12601 of Title 22 of the California  
15 Code of Regulations.

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2.4 DiPirro alleges that the customary use or application of the Products is likely to expose users to one or more of the Listed Chemicals. In the event that Sunex obtains analytical, risk assessment or other data ("Exposure Data") that shows an exposure to any or all of those Products poses "no significant risk" or "no observable effect" as such standards are applicable and as are defined under Health & Safety Code §25249.10(c) and Sunex seeks to limit or eliminate any of the warning provisions required under this Consent Judgment, then Sunex shall provide DiPirro with ninety (90) days prior written notice of its intent to limit or eliminate the warning provisions under this Consent Judgment based on the Exposure Data and shall provide DiPirro with all such supporting Exposure Data. Within ninety (90) days of receipt of Sunex Exposure Data, DiPirro shall provide Sunex with written notice of his intent to challenge the Exposure Data (in the event that he chooses to make such a challenge). If DiPirro fails to provide Sunex written

1 notice of his intent to challenge the Exposure Data within ninety (90) days of  
2 receipt of Sunex notice and the Exposure Data, DiPirro shall waive all rights to  
3 challenge the Exposure Data, and Sunex shall be entitled to limit or eliminate the  
4 warning provisions required under this Consent Judgment with respect to those  
5 Product(s) to which the Exposure Data applies. If DiPirro timely notifies Sunex of  
6 his intent to challenge the Exposure Data, DiPirro and Sunex (a) may stop its efforts  
7 to eliminate the warnings upon notice to DiPirro with no further liability or  
8 obligations or (b) shall negotiate in good faith for a period not to exceed thirty (30)  
9 days following receipt of Sunex notice to attempt to reach a settlement of this  
10 issue. If a settlement is not reached, DiPirro and Sunex agree to submit such  
11 challenge to the superior court for determination, pursuant to the court's continuing  
12 jurisdiction of this matter under C.C.P. §664.6 and this Consent Judgment. The  
13 prevailing party shall be entitled to reasonable attorneys' fees and costs associated  
14 with bringing a motion brought under this paragraph to the court for determination.  
15 Should Sunex so request, DiPirro shall not unreasonably withhold his consent to  
16 modifying or eliminating the warning program set forth in Section 2.3 herein to  
17 make it consistent with the warning program applicable to other manufacturers and  
18 distributors of power tool products substantially similar to the Products.

### 20 **3. MONETARY PAYMENTS**

#### 21 **3.1 Payment Pursuant To Health & Safety Code §25249.7(b).**

22 Pursuant to Health & Safety Code §25249.7(b), Sunex shall pay a civil penalty of  
23 \$1,000. The payment of \$1,000 shall be paid within five (5) calendar days of the  
24 Effective Date and shall be held in trust by DiPirro's counsel until the Alameda  
25 County Superior Court approves and enters the Consent Judgment. The penalty  
26 payment is to be made payable to "Chanler Law Group In Trust For Michael  
27 DiPirro".

#### 28 **3.2 Any penalty monies received shall be apportioned by DiPirro in**

1 accordance with Health & Safety Code §25192, with 75% of these funds remitted  
2 to the State of California's Department of Toxic Substances Control. DiPirro shall  
3 bear all responsibility for apportioning and paying to the State of California the  
4 appropriate civil penalties paid in accordance with this paragraph. In the event this  
5 Consent Judgment is not approved by the Court, DiPirro will return to Sunex all  
6 funds, with interest thereon at a rate of six percent (6%) per annum, within five (5)  
7 calendar days of receipt of notice of the Court's rejection of this proposed Consent  
8 Judgment.

9           **3.3** Sunex understands that the payment schedule as stated in this  
10 Consent Judgment is a material factor upon which DiPirro has relied in entering into  
11 this Consent Judgment. Sunex agrees that all payments will be made in a timely  
12 manner in accordance with the payment due dates. Sunex will be given a five (5)  
13 calendar day grace period from the date payment is due. Sunex agrees to pay  
14 Michael DiPirro a \$250 per calendar day fee for each day the payment is received  
15 after the grace period ends. For purposes of this paragraph, each new day  
16 (requiring an additional \$250 payment) will begin at 5 p.m. (PST).

#### 17 18 **4. REIMBURSEMENT OF FEES AND COSTS**

19           **4.1 Reimbursement Of Fees And Costs.** The parties acknowledge  
20 that DiPirro offered to resolve the dispute without reaching terms on the amount of  
21 fees and costs to be reimbursed, thereby leaving this open issue to be resolved  
22 after the material terms of the agreement had been reached, and the matter settled.  
23 Sunex then expressed a desire to resolve the fee and cost issue concurrently with  
24 other settlement terms, so the parties tried to reach an accord on the compensation  
25 due to DiPirro and his counsel under the private attorney general doctrine codified  
26 at C.C.P. §1021.5.

27           **4.2** Sunex shall reimburse DiPirro and his counsel for his fees and  
28 costs, incurred as a result of investigating, bringing this matter to Sunex's

1 attention, litigating and negotiating a settlement in the public interest. Sunex shall  
2 pay \$12,250 for all attorneys' fees, expert and investigation fees, and litigation  
3 costs. Sunex agrees to pay the total sum of \$12,250 within five (5) calendar days  
4 of the Effective Date. Such sum shall be held in trust by DiPirro's counsel until the  
5 Alameda County Superior Court approves and enters the Consent Judgment. If the  
6 Consent Judgment is not approved by the Court, DiPirro will return to Sunex, all  
7 funds, with interest thereon at a rate of six percent (6%) per annum, within ten  
8 (10) calendar days of notice of the Court's decision. Payment should be made  
9 payable to the "Chanler Law Group".

10 **4.3** Sunex understands that the payment schedule as stated in this  
11 Consent Judgment is a material factor upon which DiPirro and his counsel have  
12 relied in entering into this Consent Judgment. Sunex agrees that all payments will  
13 be made in a timely manner in accordance with the payment due dates. Sunex will  
14 be given a five (5) calendar day grace period from the date payment is due. Sunex  
15 agrees to pay Michael DiPirro and his counsel a \$250 per calendar day fee for each  
16 day the payment is received after the grace period ends. For purposes of this  
17 paragraph, each new day (requiring an additional \$250 payment) will begin at 5  
18 p.m. (PST).

19 **4.4 Additional Contingent Fees and Costs.** In the event that the  
20 California Attorney General's Office, pursuant to 11 CCR 3000 *et seq*, serves  
21 objections to this Consent Judgment on either of the parties, such that it requires  
22 DiPirro to incur additional legal fees or costs relating to this Consent Judgment,  
23 Sunex shall reimburse DiPirro for reasonable fees and costs incurred by DiPirro and  
24 his counsel in excess of \$1,500 from the date of receipt of the Attorney General's  
25 objections. However, in no event shall Sunex be responsible for more than \$6,500  
26 in additional contingent fees. Such additional legal fees or costs relating to this  
27 Consent Judgment include, but are not limited to: further editing and finalizing of  
28 the Consent Judgment; corresponding with opposing counsel; retention of experts;



1 and presenting of the Consent Judgment (or any modifications thereof) to the  
2 Attorney General for further comment.

3 DiPirro agrees to document all fees and costs incurred from the date of  
4 receipt of the Attorney General's objections through the date of court approval of  
5 the Consent Judgment. Prior to receiving such documentation, Sunex agrees to  
6 enter into a letter agreement in which the parties agree that, by transmitting such  
7 information, no privilege will be waived by DiPirro or his counsel.

8 Such additional reimbursement of legal fees and costs shall be due  
9 within ten (10) calendar days after receipt by Sunex of both notice of Court  
10 approval of the Consent Judgment and final billing statement from DiPirro. Sunex  
11 has the right to object to such reimbursement. If Sunex does object, it shall notify  
12 DiPirro's counsel in writing within five (5) calendar days of its receipt of both the  
13 notice of the Court's approval of the Consent Judgment and DiPirro's billing  
14 statement. The parties shall meet and confer in good faith to resolve the dispute.  
15 If the dispute is not resolved within twenty-one (21) calendar days, either party  
16 may submit the dispute to the Court, pursuant to the Court's continuing jurisdiction  
17 to implement the terms of this Consent Judgment. The parties may also agree to  
18 resolve the dispute through mediation, arbitration or other neutral third party  
19 dispute resolution proceeding.

## 20

### 21 **5. RELEASE OF ALL CLAIMS**

22 **5.1 Michael DiPirro's Release of Sunex.** In further consideration of  
23 the promises and agreements herein contained, and for the payments to be made  
24 pursuant to Sections 3 and 4, DiPirro, on behalf of himself, his agents,  
25 representatives, attorneys, and/or assignees, and in the interest of the general  
26 public, hereby waives all rights to institute or participate in, directly or indirectly,  
27 any form of legal action and releases all claims, including, without limitation, all  
28 actions, causes of action, in law or in equity, suits, liabilities, demands, obligations,

1 damages, costs, fines, penalties, losses or expenses (including investigation fees,  
2 expert fees and attorneys' fees and other costs, other than those stated herein) of  
3 any nature whatsoever, whether known or unknown, fixed or contingent  
4 (collectively, "Claims"), against Sunex and any of its parent companies, divisions,  
5 subdivisions, subsidiaries (and the predecessors, successors and assigns of any of  
6 them), and its respective officers, directors, attorneys, representatives,  
7 shareholders, partners, agents, and employees (collectively, "Sunex Releasees").  
8 This waiver and release shall pertain only to Claims arising under Proposition 65 or  
9 Business & Professions Code §17200 *et seq.*, related to the Sunex Releasees  
10 alleged failure to warn about exposures on or before the March 31, 2002 to the  
11 Listed Chemicals contained in or produced by the customary use of any of the  
12 Products. It is specifically understood and agreed that the parties intend that  
13 Sunex's compliance with the terms of this Release resolves all issues and liability,  
14 now and in the future, concerning the Sunex Releasees' compliance with the  
15 requirements of Proposition 65 or Business and Professions Code §17200 *et seq.*,  
16 as to the Products.

17  
18 **5.2. DiPirro's Release of "Downstream Persons."** In further  
19 consideration of the promises and agreements herein contained, and for the  
20 payments to be made pursuant to Sections 3 and 4, DiPirro, on behalf of himself,  
21 his agents, representatives, attorneys, and/or assignees, and in the interest of the  
22 general public, further waives all rights to institute any form of legal action and  
23 releases all Claims, as defined above, against each distributor, wholesaler,  
24 auctioneer, retailer, dealer, customer, owner, operator, purchaser, lessor, lessee,  
25 renter, or user of the Products, or any of their respective parent, divisions,  
26 subdivisions, subsidiaries (and the predecessors, successors and assigns of any of  
27 them) and their respective officers, directors, shareholders, partners, attorneys,  
28 representatives, agents, employees (collectively, "Downstream Persons"). This

1 waiver and release shall pertain only to Claims arising under Proposition 65 or  
2 Business & Professions Code §17200 *et seq.*, related to the Downstream Persons'  
3 alleged failure to warn about exposures on or before March 31, 2002 to the Listed  
4 Chemicals contained in or produced by the customary use of any of the Products.  
5 It is specifically understood and agreed that the parties intend that this Consent  
6 Judgment resolves all issues and liability, now and in the future, concerning the  
7 Downstream Persons' compliance with the requirements of Proposition 65 or  
8 Business & Professions Code §17200, *et seq.*, as to the Products.

9  
10 **5.3. Sunex Release of Michael DiPirro.** Sunex waives all rights to  
11 institute any form of legal action against DiPirro, and his attorneys or  
12 representatives, for all actions taken or statements made on or before the Effective  
13 Date by DiPirro and his attorneys or representatives, in the course of seeking  
14 enforcement of Proposition 65 or Business & Professions Code §17200, *et seq.*  
15 against Crain.

16  
17 **6. SUNEX SALES DATA.** Sunex understands that the sales data provided to  
18 counsel for DiPirro by Sunex was a material factor upon which DiPirro has relied to  
19 determine the amount of payments made pursuant to Health & Safety Code  
20 §25249.7(b) in this Agreement. To the best of Sunex's knowledge, the sales data  
21 provided is true and accurate. In the event that DiPirro discovers facts which  
22 demonstrate to a reasonable degree of certainty that the sales data is materially  
23 inaccurate, the parties shall meet in a good faith attempt to resolve the matter  
24 within ten (10) days of Sunex's receipt of notice from DiPirro of his intent to  
25 challenge the accuracy of the sales data. If this good faith attempt fails to resolve  
26 DiPirro's concerns, DiPirro shall have the right to vacate this Consent Judgment and  
27 re-institute an enforcement action against Sunex, provided that all sums paid by  
28 Sunex pursuant to Sections 3 and 4 are returned to Sunex within ten (10) days

1 from the date on which DiPirro notifies Sunex of his intent to rescind this  
2 Agreement. In such case, all applicable statutes of limitation shall be deemed tolled  
3 for the period between the date DiPirro filed the instant action and the date DiPirro  
4 notifies Sunex that he is vacating this Consent Judgment pursuant to this  
5 Paragraph, provided that in no event, shall any statute of limitations be tolled  
6 beyond four (4) years from the date this action was filed.

7  
8 **7. COURT APPROVAL.** If this Consent Judgment is not approved and entered  
9 by the Court within 300 days of the Effective Date, it shall be deemed null and void  
10 as of the three hundred first (301st) day after the Effective Date and cannot be  
11 used in any proceeding.

12  
13 **8. SEVERABILITY.** In the event that any of the provisions of this Consent  
14 Judgment are held by a court to be unenforceable, the validity of the enforceable  
15 provisions remaining shall not be adversely affected.

16  
17 **9. ATTORNEY'S FEES.** In the event that a dispute arises with respect to any  
18 provision(s) of this Consent Judgment (including, but not limited to, disputes arising  
19 from the payments provisions in Sections 3 and 4), the prevailing party shall be  
20 entitled to recover costs and reasonable attorneys' fees.

21  
22 **10. GOVERNING LAW.** The terms of this Consent Judgment shall be governed  
23 by the laws of the State of California. In the event that Proposition 65 is repealed  
24 or is otherwise rendered inapplicable by reason of law generally, or as to the  
25 Products specifically, Sunex shall have no further obligations pursuant to this  
26 Consent Judgment with respect to, and to the extent that, those Products are so  
27 affected.

28

1 **11. NOTICES.** All correspondence and notices required to be provided pursuant  
2 to this Consent Judgment shall be in writing and shall be personally delivered or  
3 sent by first-class, registered, certified mail, overnight courier and/or via facsimile  
4 transmission (with presentation of facsimile transmission confirmation) addressed  
5 as follows:

6 If to Michael DiPirro: David Bush, Esq.  
7 Bush & Henry  
8 4400 Keller Ave., Suite 200  
Oakland, CA 94605  
(fax) (510) 577-0787

9 If to Sunex: Jack Blackburn  
10 Vice-President  
11 Sunex Tools  
12 P.O. Box 4215  
Greenville, South Carolina 29608  
(fax) 864-834-6670

13 With a copies to: Greg English, Esq.  
14 Wyche Law Firm  
15 44 E. Camperdown Way  
Greenville, South Carolina 29601  
(fax) 864-235-8900

16 John E. Dittoe, Esq.  
17 Crosby, Heafey, Roach & May  
18 1999 Harrison Street  
P.O. Box 2084  
Oakland, CA 94604-2084  
(fax) (510) 273-8832

19 Either party, from time to time, may specify a change of address or facsimile  
20 number to which all notices and other communications shall be sent.

21  
22 **12. NO ADMISSIONS:** Nothing in this Consent Judgment shall constitute or be  
23 construed as an admission by Sunex of any fact, finding, conclusion, issue of law,  
24 or violation of law, nor shall compliance with this Consent Judgment constitute or  
25 be construed as an admission by Sunex of any fact, finding, conclusion, issue of  
26 issue of law, or violation of law, such being specifically denied by Sunex. Sunex  
27 reserves all of its rights and defenses with regard to any claim by any party under  
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1 Proposition 65 or otherwise. However, this Paragraph shall not diminish or  
2 otherwise affect Sunex obligations, responsibilities and duties under this Consent  
3 Judgment.

4  
5 **13. ENTIRE AGREEMENT; MODIFICATION:** This Consent Judgment constitutes  
6 the entire agreement between the parties relating to the rights and obligations  
7 herein granted and assumed, and supersedes all prior agreements and  
8 understandings between the parties. This Consent Judgment may be modified only  
9 upon the written agreement of the parties and upon entry of a modified or amended  
10 Consent Judgment by the Court, or upon motion by any party as provided by law  
11 and upon entry of an amended Consent Judgment by the court.

12  
13 **14. COUNTERPARTS; FACSIMILE SIGNATURES:** This Consent Judgment may be  
14 executed in counterparts and by facsimile, each of which shall be deemed an  
15 original, and all of which, when taken together, shall constitute one and the same  
16 document.

17  
18 **15. COMPLIANCE WITH REPORTING REQUIREMENTS (HEALTH & SAFETY**  
19 **CODE §25249.7(f))**. The parties acknowledge that the reporting provisions of  
20 Health & Safety Code §25249.7(f) apply to this Consent Judgment. Counsel for  
21 DiPirro shall comply with that section by submitting the required reporting form to,  
22 and serving a copy of this Consent Judgment on the California Attorney General's  
23 Office within two business days after the parties execute this Consent Judgment.  
24 Following the expiration of the Attorney General's thirty day review period, counsel  
25 for DiPirro shall submit the Consent Judgment to the Court in accordance with the  
26 requirements of Health & Safety Code Section 25249.7(f) and its implementing  
27 regulations, unless the parties cannot agree that all of the Attorney General's  
28 objections, if any, cannot be reasonably cured.

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AGREED TO:

DATE: December \_\_, 2001

Michael DiPirro  
Plaintiff Michael DiPirro

APPROVED AS TO FORM:

DATE: \_\_\_\_\_

David Bush  
Attorneys for Plaintiff  
Michael DiPirro

AGREED TO:

DATE: December \_\_, 2001

\_\_\_\_\_  
Defendant Crain Cutter Co., Inc.

APPROVED AS TO FORM:

DATE: \_\_\_\_\_

John E. Dittoe  
Attorneys for Defendant Crain  
Cutter Co., Inc.

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AGREED TO:

DATE: December \_\_, 2001

\_\_\_\_\_  
Plaintiff Michael DiPirro

APPROVED AS TO FORM:

DATE: 12/20/01

  
\_\_\_\_\_  
David Bush  
Attorneys for Plaintiff  
Michael DiPirro

AGREED TO:

DATE: December \_\_, 2001

\_\_\_\_\_  
Defendant Crain Cutter Co., Inc.

APPROVED AS TO FORM:

DATE: \_\_\_\_\_

\_\_\_\_\_  
John E. Dittoe  
Attorneys for Defendant Crain  
Cutter Co., Inc.



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DATE: December \_\_, 2001

DATE: December 21, 2001

\_\_\_\_\_  
Plaintiff Michael DiPirro

*Michael Crain*  
Defendant Crain Cutter Co., Inc.

APPROVED AS TO FORM:

APPROVED AS TO FORM:

DATE: \_\_\_\_\_

DATE: 12/21/01

\_\_\_\_\_  
David Bush  
Attorneys for Plaintiff  
Michael DiPirro

*John E. Dittoe*  
John E. Dittoe  
Attorneys for Defendant Crain  
Cutter Co., Inc.

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EXHIBIT A

**EXHIBIT A – SUNEX INTERNATIONAL**

**Power Tools**

- Saws (such as band, block, brick, circular, chop, clearing, concrete, cut-off machines, floor, jig, masonry, miter, pavement, radial, reciprocating, scroll, stonecutting, table, tile and wall mounted) .
- Power shears and cutters (such as rotary tile and pipe cutters, trimmers).
- Power cutout tools.
- Sanders, polishers, abrading machines and buffers.
- Grinders (such as pavement, right angle, die, straight and bench grinders and grooving equipment).
- Drills and augers (such as general purpose, diamond coring, driver, hammer, drill press and drywall drills).
- Power sharpeners and files, including drill bit sharpeners.
- Power screw drivers.
- Power hammers (such as breaker, chipper and rotary).
- Rotary tools and impact wrenches.
- Lathes, planers, shapers, edgers and nibblers.
- Routers (such as general purpose, masonry and plunge).
- Joiners (such as general purpose and plate).
- Paint drying and removing tools, including sandblasters and heat guns.
- Drywall cutters and trimmers.

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**EXHIBIT B**

COPY

1 BILL LOCKYER  
Attorney General of the State of California  
2 RICHARD M. FRANK  
Chief Assistant Attorney General  
3 CRAIG C. THOMPSON  
Acting Assistant Attorney General  
4 EDWARD G. WEIL (S.B. No. 88302)  
Deputy Attorney General  
5 1515 Clay Street, 20<sup>th</sup> Floor  
Oakland, CA 94612  
6 Telephone: (510) 622-2149

ENDORSED  
FILED  
San Francisco County Superior Court

SEP 29 2000

GORDON PARK-LI, Clerk  
BY: JENNIFER W. MACK  
Deputy Clerk

7 Attorneys for Plaintiffs People of the State of California

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 COUNTY OF SAN FRANCISCO

|    |  |   |                  |
|----|--|---|------------------|
| 10 | PEOPLE OF THE STATE OF CALIFORNIA ex. rel.     | ) | No. 995893       |
| 11 | BILL LOCKYER, Attorney General of the State of | ) |                  |
|    | California,                                    | ) | CONSENT JUDGMENT |
| 12 |  | ) |                  |
|    | Plaintiffs,                                    | ) |                  |
| 13 |  | ) |                  |
|    | v.   | ) |                  |
| 14 | Ace Hardware Corporation, et al.               | ) |                  |
| 15 |  | ) |                  |
|    | Defendants.                                    | ) |                  |

17 1. INTRODUCTION

18 1.1. On June 18, 1998, the Attorney General of the State of California, on behalf of the  
19 People of the State of California ("People"), filed a complaint for civil penalties and injunctive  
20 relief for violations of Proposition 65 and unlawful business practices in this Court.

21 1.2. The following defendants were named in the complaint: The Carborundum  
22 Co., Wal-Mart Stores, Inc., Minnesota Mining and Manufacturing Company, sued herein as 3M  
23 Corporation, Post Tool, Sungold Abrasives U.S.A., Inc., Truestone Block, Inc., Shamrock  
24 Materials, Inc. (sued herein as "Shamrock Materials"), Sears Roebuck & Co., Orchard Supply  
25 Hardware Stores Corporation, Boral Industries, Inc., Boral Bricks, Inc., Coronado Stone  
26 Products, CPC Terminals, Hokanson Bldg. Block Co., Bosch Power, Div. of SB Power Tool Co.,  
27 Dremel, Skil, Div. of SB Power Tool Co., Yardbirds, John Deere Consumer Products, Inc.,

1 United Abrasives, Inc., Husqvarna Forest & Garden Co., Shindaiwa, Partner Industrial Prods.,  
2 Norton Company, Stow Manufacturing Co., Stihl, Inc., Echo, Inc., Cushion Cut, Inc., Hitachi  
3 Koki U.S.A., Ltd. (sued as "Hitachi Power Tools" and "Hitachi Koki"), Makita U.S.A., Inc.,  
4 Bullard Abrasives, Inc., Norton High Performance Refractories, Acme Brick Co., Alsey  
5 Refractories Co., Atkinson Brick Co., Belden Brick Company, BNZ Materials, Inc., Calstone  
6 Company, Castaic Brick Manufacturing Co., Chicago Fire Brick Co., Delta International  
7 Machinery Corp., Endicott Clay Products Co., Glen-Gery Corporation, Hanson North America,  
8 Inc., McNear Brick & Block, National Refractories & Minerals, North American Refractories  
9 Company, Pacific Clay Brick Co., Pacific Coast Building Products (sued as itself and as its  
10 operating divisions Basalite Block and Pacific Supply), Pacific Holding Company, Pine Hall  
11 Brick Co., P.K. Insulation Manufacturing Company, Inc., Porter Cable Corporation, Premier  
12 Refractories, Inc., The Quikrete Company, Richtex Corporation, Ryobi America Corporation,  
13 Thermal Ceramics, Inc., Unifrax Corporation, Wellsville Fire Brick Co., Ace Hardware Corp.,  
14 American Tool Co., Inc., Black & Decker (U.S.), Inc., Diamond Products, The M.K. Morse  
15 Company, Milwaukee Electric Tool Corporation, Pferd, Inc., Powers Fastening, Inc.(Rawplug),  
16 Terra Diamond Industrial, Vermont American Corp., AirVol Block, Inc., Costco Wholesale,  
17 Waban. Inc., dba Home Base, K-Mart Corporation, The Home Depot U.S.A., Inc., Calaveras  
18 Cement Co., Fomey Industries, Lydall, Inc., Clesco Manufacturing Div., Glit, Inc., The Oatey  
19 Company, Kaiser Cement Corp., Fibrex, Inc., Magnum Diamond & Machinery, Ali Industries,  
20 TruServ Corporation, Global Material Technologies, Inc.(incorrectly sued herein as Rhodes  
21 American), and United States Gypsum Company.

22 1.3. The following defendants were dismissed from this action: Sungold Abrasives  
23 U.S.A., Inc., United Abrasives, Inc., Shindaiwa, Inc., Boral Industries, Inc., Boral Bricks, Inc.,  
24 Norton High Performance Refractories, Acme Brick Co., Alsey Refractories Co., Belden Brick  
25 Company, BNZ Materials, Inc., Chicago Fire Brick Co., Endicott Clay Products Co., Glen-Gery  
26 Corporation, Hanson North America, Inc., Pine Hall Brick Co., P.K. Insulation Manufacturing  
27 Company, Inc., Premier Refractories, Inc., Richtex Corporation, Thermal Ceramics, Inc., Unifrax

1 Corporation, Wellsville Fire Brick Co., Diamond Products, The M.K. Morse Company, Pferd,  
2 Inc., Powers Fastening, Inc. (Rawplug), Terra Diamond Industrial, Lydall, Inc., The Oatey  
3 company, Fibrex, Inc., Clesco Manufacturing Div., Magnum Diamond & Machinery, and The  
4 Carborundum Company. All remaining defendants are referred to as "Settling Defendants".

5 1.4. Each Settling Defendant is a corporation or other business entity that employs more  
6 than 10 persons and which imports, distributes and/or sells Covered Products in the State of  
7 California or has done so in the past.

8 a. For purposes of this Consent Judgment, the term "Covered Products" means all  
9 products described in Exhibit A to this Consent Judgment, regardless of product nomenclature  
10 and model design or designation including past or future modifications not affecting the basic  
11 function of the products. Covered Products do not include soldering irons or soldering guns.  
12 Products described as "Accessories" in Exhibit A are attachments to the power tools or hand tools  
13 identified in Exhibit A, or otherwise work in connection or association with them, and are  
14 Covered Products when used as accessories to other Covered Products identified as power tools.

15 b. For the purposes of this Consent Judgment, the term "dust" refers both to fine  
16 particulate matter and to any material released from a Covered Product or from the use of a  
17 Covered Product on masonry, wood, metal, or any other natural or synthetic substances. The  
18 term includes but is not limited to particles, fibers, chips, residues, powder, smoke, fumes,  
19 vapors, soot, grime, dirt, chaff, fines, flakes, sand, granules, attritus, efflorescence, sawdust,  
20 detritus, filings, debris, grains, friable material, turnings, sweepings, scourings, rinse; raspings,  
21 shavings, dregs, mud, remains, mist, and precipitates. "Dust" does not include engine exhaust.

22 1.5. The People's Complaint alleges that the Settling Defendants failed to provide clear  
23 and reasonable warnings that use of the Covered Products would result in exposure to crystalline  
24 silica, lead, hexavalent chromium, arsenic, or other chemicals known to the State of California to  
25 cause cancer, birth defects or other reproductive harm. The Complaint further alleges that under  
26 the Safe Drinking Water and Toxic Enforcement Act of 1986, Health and Safety Code section  
27 25249.6, also known as "Proposition 65," businesses must provide persons with a "clear and

1 reasonable warning" before exposing individuals to these chemicals, and that the Settling  
2 Defendants failed to do so. The Complaint also alleges that these acts constitute unlawful acts in  
3 violation of the Unfair Competition Law, Pursuant to Business and Professions Code sections  
4 17200 *et seq.* The Complaint specifically alleges that the action does not seek any relief with  
5 respect to occupational exposures to listed chemicals caused by products manufactured outside  
6 the State of California.

7 1.6. For purposes of this Consent Judgment only, the parties stipulate that this Court has  
8 jurisdiction over the allegations of violations contained in the People's Complaint and personal  
9 jurisdiction over each Settling Defendant as to the acts alleged in the People's Complaint, that  
10 venue is proper in the County of San Francisco, and that this Court has jurisdiction to enter this  
11 Consent Judgment as a full and final resolution of all claims which were or could have been  
12 raised in the Complaint based on the facts alleged therein.

13 1.7. For the purpose of avoiding prolonged litigation, the Attorney General, acting on  
14 behalf of and in the interests of the People, and Settling Defendants enter into this Consent  
15 Judgment as a full and final settlement of all claims that were raised in the Complaint, or which  
16 could have been raised in the Complaint, arising out of the facts or conduct alleged therein. By  
17 execution of this Consent Judgment and agreeing to provide the relief and remedies specified  
18 herein, Settling Defendants do not admit any violations of Proposition 65 or Business and  
19 Professions Code sections 17200 *et seq.*, or any other law or legal duty, and specifically deny that  
20 they have committed any such violations. Nothing in this Consent Judgment shall prejudice,  
21 waive or impair any right, remedy, or defense the Attorney General and Settling Defendants may  
22 have in any other or in future legal proceedings unrelated to these proceedings. However, this  
23 paragraph shall not diminish or otherwise affect the obligations, responsibilities, and duties of the  
24 parties under this Consent Judgment.

25 **2. CLEAR AND REASONABLE WARNINGS**

26 2.1. Manufacturers of Covered Products identified in Exhibit B and sold for use in the  
27 State of California ("Exhibit B Products") shall provide clear and reasonable warnings that some



1 uses of those products expose persons to chemicals known to the State of California to cause  
2 cancer, birth defects, or other reproductive harm; these warnings shall be given under the  
3 circumstances, in the manner, and according to the schedules provided in this Consent Judgment.  
4 For purposes of this section 2, a manufacturer ("Manufacturer") is any Settling Defendant that  
5 either manufactures an Exhibit B product, or that sells an Exhibit B product in packaging (not  
6 including price tags, inventory control labels, and other labels affixed to products) bearing the  
7 name or trademark of that Settling Defendant. However, nothing in this Consent Judgment shall  
8 require (1) any Manufacturer of an Exhibit B product to provide warnings on or with any  
9 products other than those it manufactures or sells in packaging bearing its name or trademark, or  
10 (2) Settling Defendants other than Manufacturers of Exhibit B products to provide any warnings  
11 other than those interim warnings identified in subparagraph 3.1. Proposition 65 permits  
12 warnings to be provided through mechanisms such as point-of-sale signs, which are not product  
13 labels and do not travel with products through interstate commerce. The use of other warning  
14 methods, such as labels and in-manual warnings under this Consent Judgment, is consented to by  
15 the parties to the Consent Judgment, and shall not be construed to mean that those methods are  
16 the only lawful means of compliance with Proposition 65.

17 2.2. Where a Proposition 65 warning is not required by this Consent Judgment for a  
18 Covered Product sold for use in the State of California (*i.e.* those products listed on Exhibit A  
19 that are not listed on Exhibit B, or "No Warning Products"), the Settling Defendants shall not  
20 provide that product with a Proposition 65 warning concerning any exposure, unless required by  
21 the federal Hazard Communication Standard. Provided, however, that chain saws and any other  
22 product may retain any Proposition 65 warning required by the settlement of previous litigation.  
23 The sole means of modifying this prohibition is a motion brought in accordance with section 5.

24 a. If a Proposition 65 warning is currently being provided with or on any No Warning  
25 Products, and the warning is not otherwise allowed by this Consent Judgment, the Manufacturer  
26 of each of these shall remove the warning in accordance with the schedule provided by this  
27 Consent Judgment. However, a Settling Defendant may retain Proposition 65 warnings that

1 would otherwise have to be removed under this subparagraph if it reasonably believes that the  
2 warning is required for occupational use of the product, and the product is sold in the same  
3 packaging to both occupational and consumer customers.

4 b. For the purposes of this Consent Judgment, a Proposition 65 warning is one that  
5 contains the phrase "Proposition 65", the phrase "a chemical known to the State of California", or  
6 language substantially similar. However, nothing in this Consent Judgment shall prevent a party  
7 from providing any warning that is or may potentially be required by any law other than  
8 Proposition 65, including any regulatory or tort law. In particular, Settling Defendants may  
9 provide warnings about cancer, birth defects, and reproductive harm, so long as the warnings are  
10 not Proposition 65 warnings as defined in this subparagraph.

11 2.3. Nothing in this Consent Judgment requires that warnings be given for Covered  
12 Products sold for use outside the State of California.

13 2.4. Nothing in this Consent Judgment requires that Proposition 65 warnings be given for  
14 occupational exposures associated with any Covered Product that is manufactured outside of the  
15 State of California, within the meaning of the June 6, 1997, U.S. Department of Labor,  
16 Occupational Safety and Health Administration, "Approval; California State Standard on Hazard  
17 Communication Incorporating Proposition 65," 62 Federal Register 31159-31181. All Covered  
18 Products falling within this provision are deemed to be excluded from Exhibit B.

19 2.5. Warnings in manuals. A Manufacturer required to provide a warning for an Exhibit  
20 B Product under subparagraph 2.1 may provide that warning in the owner's manual for that  
21 Exhibit B Product if all of the following conditions are met:

22 a. the warning shall be located in one of the following places in the owner's manual: the  
23 outside of the front cover, the inside of the front cover, the first page other than the cover, or the  
24 outside of the back cover. Unless a different warning is approved by the Attorney General, the  
25 warning shall have the exact content as the warning in Exhibit C, except that, at the option of the  
26 manufacturer, the bracketed language may be omitted. The warning shall be printed in a font no  
27 smaller than the font used for other safety warnings in the manual. The format shown in Exhibit

1 C is illustrative only, provided that the warning meets the other requirements of this section.  
2 Alternatively, the warning may be included in a safety warning section consistent with  
3 specifications UL 745-1 or UL 45, issued by Underwriters Laboratories Inc., as amended. The  
4 warning may either be printed in the manual or contained in a durable label or sticker affixed to  
5 the manual. If the graphic is used, and the manual is printed in a single color of ink on paper,  
6 then the warning need not contain the yellow color shown on Exhibit C. Modifications  
7 concerning colors of manual warnings may be made with the advance consent of the Attorney  
8 General, which shall not be unreasonably withheld.

9 b. the Exhibit B Product contains a durable label or sticker directing the operator's  
10 attention to the owner's manual;

11 c. the owner's manual is intended by the Manufacturer to be provided with the original  
12 packaging of the Exhibit B Product to the initial consumer/purchaser;

13 d. at least one other safety warning appears in the owner's manual; and

14 e. all or a substantial portion of operation instructions, if any, are contained in the  
15 owner's manual.

16 2.6. Warnings on the Product. As an alternative to complying with the requirements of  
17 subparagraph 2.5, a Manufacturer of an Exhibit B Product may satisfy its obligations under this  
18 Consent Judgment by providing warnings on the product. Any such warning may be provided  
19 by affixing a durable label containing a warning with the language contained in Exhibit D on the  
20 Exhibit B Product in a location that can be seen by the user of the Exhibit B Product under  
21 normal circumstances of use of the Exhibit B Product.

22 2.7. Reporting to the Attorney General. Each Manufacturer responsible for providing  
23 one or more warnings under subparagraph 2.1 shall mail one sample copy of a warning,  
24 regardless of the number of product types manufactured, together with a certificate stating that  
25 the warning requirements under the Consent Judgment have been complied with, to the Attorney  
26 General within one year and 30 days following the entry of this Consent Judgment.

27 ///

1           2.8. No Proposition 65 warnings concerning any exposure shall be provided on or with  
2 Covered Products except as required by subparagraphs 2.1, 2.5, 2.6, or 3.1, or as allowed by  
3 subparagraph 2.2. The sole means of modifying this prohibition is a motion brought in  
4 accordance with section 5.

5 **3. INTERIM AND FINAL WARNINGS**

6           3.1 An interim warning program for Exhibit B products sold to consumers in the State of  
7 California shall be conducted in accordance with the following provisions.

8           a. Within 60 days from the date of entry of this Consent Judgment, each Settling  
9 Defendant who owns or operates any retail store within the State of California ("Retail  
10 Defendant" or, as a group, "Retail Defendants") shall provide to the store manager of every retail  
11 store owned or operated by that Retail Defendant in the State of California that sells Exhibit B  
12 products (1) a warning sign containing the language in Exhibit E, and (2) a communication  
13 substantially in the form of Exhibit F (directing the recipient to post the warning sign). As shown  
14 in Exhibit F, the letter shall direct the recipient to execute an acknowledgment and return it to the  
15 sender within 21 days of receipt. If the sender has not received the acknowledgment within 30  
16 days of sending, the sender shall so inform the Attorney General and provide a copy of the  
17 original letter and any response from the recipient.

18           b. Within 60 days from the date of entry of this Consent Judgment, each Settling  
19 Defendant who has a cooperative or franchise agreement with any retail store within the State of  
20 California ("Coop Defendant" or, as a group, "Coop Defendants") shall provide to the store  
21 manager of every store in the State of California that sells Exhibit B products with which the  
22 Coop Defendant has a cooperative or franchise agreement (1) a warning sign containing the  
23 language in Exhibit E, and (2) a communication substantially in the form of Exhibit G (informing  
24 the recipient of its obligation to post the warning sign).

25           c. Within 60 days from the date of entry of this Consent Judgment, each Manufacturer of  
26 an Exhibit B product shall provide to each retailer in the State of California to whom the  
27 Manufacturer sells one or more Exhibit B products (1) a warning sign containing the language in

1 Exhibit E, and (2) a communication substantially in the form of Exhibit G (informing the  
2 recipient of its obligation to post the warning sign). As shown in Exhibit G, the letter shall direct  
3 the recipient to execute an acknowledgment and return it to the sender within 21 days of receipt.  
4 If the sender has not received the acknowledgment within 30 days of sending, the sender shall so  
5 inform the Attorney General and provide a copy of the original communication and any response  
6 from the recipient. In providing the sign and communication in accordance with this  
7 subparagraph, the Manufacturers of Exhibit B products may act individually or in one or more  
8 groups, and may use third parties to send out the signs and communications and collect  
9 acknowledgments. The parties recognize that any list of retailers provided to the Attorney  
10 General under this subparagraph will be provided as confidential business information. The lists  
11 and their contents shall be treated as official information in accordance with Evidence Code §  
12 1040, and the Attorney General shall exercise its privilege to keep them confidential and  
13 protected from public disclosure, if he determines this is required by law. The retailers to whom  
14 signs and letters must be sent in accordance with this subparagraph do not include parties to this  
15 Consent Judgment, defendants in *People v. Albertson's* (San Francisco Superior Court No.  
16 306343), distributors who do not sell directly to the general public, and any retailer who  
17 purchases 0.1% or less of the Covered Products the Manufacturer sells in California.

18 d. Retail stores may take down warning signs provided in accordance with this  
19 subparagraph 3.1 one year after the entry of this Consent Judgment or when they have ascertained  
20 that all Covered Products for which a warning is required being sold in their stores are providing  
21 warnings under other parts of this judgment, whichever is sooner.

22 e. The requirements of this subparagraph 3.1 may be enforced by the Attorney General in  
23 accordance with subparagraph 7.2.

24 3.2 All Exhibit B Products manufactured more than one year after entry of this Consent  
25 Judgment shall have the warnings required under subparagraph 2.1, and described in  
26 subparagraphs 2.5 and 2.6. However, the Manufacturer of any Exhibit B Product that begins to  
27 design, lay out, and reprint the manual for that product after the entry of this Consent Judgment

1 but before the one-year deadline shall include in the reprinted manual the warning described in  
2 subparagraph 2.5, unless the Manufacturer chooses to provide warnings in accordance with  
3 subparagraph 2.6.

4 3.3 The provisions in subparagraph 2.2 requiring the removal of Proposition 65 warnings  
5 from No Warning Products shall apply only to No Warning Products that are manufactured more  
6 than one year after entry of this Consent Judgment. However, the manufacturer of any No  
7 Warning Product that begins to design, lay out, and reprint the product packaging or warning  
8 label for that product after the entry of this Consent Judgment but before the one-year deadline  
9 shall remove from the product packaging or warning label any Proposition 65 warning prohibited  
10 by subparagraph 2.2. This subparagraph 3.3 is enforceable only against a Settling Defendant that  
11 actually manufactures the product at issue, and not against any Settling Defendant that merely  
12 sells the product at issue in packaging bearing the name or trademark of that Settling Defendant.

13 3.4. Optional Interim Owner's Manual/Product Warning Program. A Defendant may  
14 elect to provide the warnings otherwise required by subparagraph 3.1 by assuring that each  
15 Exhibit B product it manufactures and is offered for sale in California on or after 90 days  
16 following entry of this Consent Judgment either (a) has affixed to it a sticker in the form set forth  
17 in Exhibit I, displayed on the outside of the product package so that it may be seen and read by  
18 customers in the store; or (b) has affixed to the owner's manual, a warning in the form set forth in  
19 Exhibit C. Alternatively, a Defendant may provide warnings by placing them in manuals for  
20 Exhibit B products in accordance with subparagraph 2.5, or by affixing to the manuals a warning  
21 in the form of Exhibit C, in accordance with the following schedule: (a) in the 30 largest selling  
22 Exhibit B product manuals within 90 days, (b) in a total of the 60 largest selling Exhibit B  
23 product manuals within 180 days, (c) in a total of the 90 largest selling Exhibit B product  
24 manuals within 270 days and (d) in all Exhibit B product manuals within one year after the entry  
25 of the consent judgment. Such warning shall be in lieu of any obligations imposed by  
26 subparagraph 3.1, but is in addition to all obligations imposed by Paragraphs 2.1 through 2.8.

27 ///

1 **4. PAYMENTS**

2 4.1. Within 30 days following receipt of notice of entry of this Consent Judgment,  
3 Settling Defendants, or an entity acting on their behalf, shall pay a total of \$100,000 to the  
4 Attorney General as reimbursement of costs and fees in prosecuting this matter. Settling  
5 Defendants may divide the responsibility for this \$100,000 payment in any manner they choose.  
6 Payment shall be made by delivery of immediately available funds to the Attorney General of the  
7 State of California, attention Edward G. Weil, Deputy Attorney General, 1515 Clay Street, 20<sup>th</sup>  
8 Floor, Oakland, California, 94612

9 4.2. The payment under Paragraph 4.1 is in satisfaction of all claims for civil penalties,  
10 attorney's fees, costs, restitution, cy pres funding, or any other form of financial relief against  
11 Settling Defendants.

12 **5. MODIFICATION OF CONSENT JUDGMENT**

13 5.1. This Consent Judgment may be modified by written agreement of the Attorney  
14 General and Settling Defendants, after noticed motion, and upon entry of a modified consent  
15 judgment by the court thereon, or upon motion of the Attorney General or any Settling Defendant  
16 as provided by law and upon entry of a modified consent judgment by the court.

17 **6. CONTINUING OBLIGATIONS**

18 6.1. The manufacture, distribution, sale, resale, and/or use of Covered Products by  
19 Settling Defendants, their suppliers, or those who are in their respective chains of distribution  
20 (including wholesalers, brokers, resellers, dealers, distributors, original equipment manufacturers,  
21 and retailers) does not violate Proposition 65 or the Unfair Competition Act if warnings are  
22 provided to consumers in compliance with this Consent Judgment.

23 6.2. Any Settling Defendant that has complied with the terms of this Consent Judgment  
24 shall not be found to have violated this Consent Judgment because any other person shall have  
25 failed to provide warnings.

26 6.3. Provided, however, that this paragraph shall not expand or diminish any duty to  
27 comply with any changes made to Proposition 65 or its implementing regulations after the date of

1 this Consent Judgment. The parties recognize that, for purposes of this subparagraph, the listing  
2 of chemicals under Proposition 65 is not a change in the statute or its implementing regulations.

3           6.4. This paragraph shall not resolve any claim with respect to a Covered Product for  
4 which no warning is provided and the product is changed after entry of this Consent Judgment to  
5 include Listed Chemicals not previously contained in the product, or chemicals that were  
6 contained in the Covered Product but are added to the Proposition 65 list of chemicals after the  
7 entry of judgment.

8           6.5 By entering into this Consent Judgment, the Attorney General does not waive any  
9 right to take further enforcement action in accordance with paragraph 7.

## 10 7. ENFORCEMENT

11           7.1. The Attorney General may, by motion or application for an order to show cause  
12 before this Court, enforce the terms and conditions contained in this Consent Judgment. In any  
13 such proceeding, the Attorney General may seek whatever fines, costs, penalties, or remedies are  
14 provided by law for failure to comply with the Consent Judgment and where said violations of  
15 this Consent Judgment constitute subsequent violations of Proposition 65 or other laws  
16 independent of the Consent Judgment and/or those alleged in the Complaint, the Attorney  
17 General is not limited to enforcement of the Consent Judgment, but may seek in another action,  
18 whatever fines, costs, penalties, or remedies are provided for by law for failure to comply with  
19 Proposition 65 or other laws. In any action brought by the Attorney General alleging subsequent  
20 violations of Proposition 65 or other laws, the Settling Defendant may assert any and all defenses  
21 that are available. Only the Attorney General may enforce the provisions of this Consent  
22 Judgment.

23           7.2 The Attorney General may enforce the requirements of subparagraph 3.1 against any  
24 Retail Defendant, Coop Defendant, cooperative member, franchisee, or independent retailer who  
25 does not comply with the requirements of that paragraph, or who receives a warning sign sent in  
26 accordance with that subparagraph but does not post the warning sign during the appropriate  
27 interval. Provided, however, that if a defendant sends out the warning signs and letters as



1 required by subparagraph 3.1, and nevertheless a retail store fails to post the warning, the retail  
2 store shall pay a stipulated penalty of \$1.00 for each sign that is required to be posted, but is not,  
3 for each day on which the sign is not posted, or, where the retail store is relying on optional  
4 warnings under section 3.4, for each product package on display without the required warning.

#### 5 **8. APPLICATION OF CONSENT JUDGMENT**

6 8.1. This Consent Judgment shall apply to and be binding upon the parties, their parents,  
7 divisions, subdivisions, subsidiaries, affiliates, franchisees, and licensees, and the predecessors,  
8 successors, and assigns of any of them. For the purposes of this Consent Judgment, "affiliate"  
9 means, with respect to any Settling Defendant, any other entity directly or indirectly controlling,  
10 controlled by, or under common control with such Settling Defendant. This Consent Judgment  
11 shall also be binding on the People of the State of California, as represented by the Attorney  
12 General or by any person who may bring a claim in the public interest or on behalf of the general  
13 public.

#### 14 **9. AUTHORITY TO STIPULATE TO CONSENT JUDGMENT**

15 9.1. Each signatory to this Consent Judgment certifies that he or she is fully authorized  
16 by the party he or she represents to stipulate to this Consent Judgment and to enter into and  
17 execute the Consent Judgment on behalf of the party represented and legally to bind that party.

#### 18 **10. CLAIMS COVERED**

19 10.1. This Consent Judgment is a full, final, and binding resolution between the People  
20 and Settling Defendants, of any violation of Proposition 65, Business & Professions Code  
21 sections 17200 *et seq.*, or any other statutory or common law claim that could have been asserted  
22 in the complaint against Settling Defendants for failure to provide clear and reasonable warnings  
23 of exposure to chemicals known to cause cancer or reproductive toxicity associated with the  
24 Covered Products, or any other claim based on the facts or conduct alleged in the Complaint,  
25 whether based on actions committed by Settling Defendants or by any entity to whom they  
26 distribute or sell Covered Products. Compliance with the terms of this Consent Judgment  
27 resolves any issue now, in the past, and in the future concerning compliance by Settling

1 Defendants, their parents, divisions, subdivisions, subsidiaries, affiliates, franchisees, cooperative  
2 members, and licensees; their distributors, wholesalers, and retailers who sell Covered Products;  
3 and the predecessors, successors, and assigns of any of them; with the requirements of  
4 Proposition 65 and Business & Professions Code sections 17200 *et seq.* Nothing in this Consent  
5 Judgment shall be construed to affect the duties or liability of any employer with respect to any  
6 duty to warn its employees.

#### 7 11. RETENTION OF JURISDICTION

8 11.1. This Court shall retain jurisdiction of this matter to implement the Consent  
9 Judgment.

#### 10 12. PROVISION OF NOTICE

11 12.1. When any party is entitled to receive any notice under this Consent Judgment, the  
12 notice shall be sent by overnight courier service to the person and address set forth in this  
13 Paragraph. Any party may modify the person and address to whom the notice is to be sent by  
14 sending each other party notice by certified mail, return receipt requested. Said change shall take  
15 effect for any notice mailed at least five days after the date the return receipt is signed by the  
16 party receiving the change.

17 12.2. Notices shall be sent to the following when required:

18 For the Attorney General:

19 Edward G. Weil  
20 Deputy Attorney General  
21 1515 Clay St., 20<sup>th</sup> Flr.  
22 Oakland, CA 94612-1413  
Telephone: (510) 622-2149  
Facsimile: (510) 622-2270

23 12.3 Notices for the Settling Defendants shall be sent to the names and addresses set  
24 forth in Exhibit H.

#### 25 13. COURT APPROVAL

26 13.1. If this Consent Judgment is not approved by the Court, it shall be of no force or  
27 effect.

1 14. EXECUTION IN COUNTERPARTS

2 14.1. The stipulations to this Consent Judgment may be executed in counterparts and by  
3 means of facsimile, which taken together shall be deemed to constitute one document.

4 IT IS SO STIPULATED:

5 Dated: July 10, 2000 BILL LOCKYER  
6 Attorney General  
7 RICHARD M. FRANK  
8 Chief Assistant Attorney General  
9 CRAIG C. THOMPSON  
10 Acting Assistant Attorney General

11 By: Edward G. Weil  
12 Edward G. Weil  
13 Deputy Attorney General  
14 For Plaintiffs People of the State of California

15 Dated:

16 By: \_\_\_\_\_  
17 Title:  
18 On behalf of Defendant:

19  
20  
21 IT IS SO ORDERED, ADJUDGED, AND DECREED.

22 ALFRED G. CHIANTELLI  
23 Dated: SEP 27 2000 Presiding Judge  
24 JUDGE OF THE SUPERIOR COURT  
25  
26  
27

1 14. EXECUTION IN COUNTERPARTS

2 14.1. The stipulations to this Consent Judgment may be executed in counterparts and by  
3 means of facsimile, which taken together shall be deemed to constitute one document.

4 IT IS SO STIPULATED:

5 Dated: July 10, 2000 BILL LOCKYER  
6 Attorney General  
7 RICHARD M. FRANK  
8 Chief Assistant Attorney General  
9 CRAIG C. THOMPSON  
10 Acting Assistant Attorney General

11 By: Edward G. Weil  
12 Edward G. Weil  
13 Deputy Attorney General  
14 For Plaintiff's People of the State of California

15 Dated: July 17, 2000

16 By: Berrie Hopkins  
17 Title: General Manager  
18 On behalf of Defendant:  
19 Hitachi Koki U.S.A., Ltd

20  
21 IT IS SO ORDERED, ADJUDGED, AND DECREED.

22  
23 Dated: \_\_\_\_\_  
24 JUDGE OF THE SUPERIOR COURT

1 14. EXECUTION IN COUNTERPARTS

2 14.1. The stipulations to this Consent Judgment may be executed in counterparts and by  
3 means of facsimile, which taken together shall be deemed to constitute one document.

4 IT IS SO STIPULATED:

5 Dated: *July 10, 2000* BILL LOCKYER  
6 Attorney General  
7 RICHARD M. FRANK  
8 Chief Assistant Attorney General  
9 CRAIG C. THOMPSON  
10 Acting Assistant Attorney General

11 By: *Edward G. Weil*  
12 Edward G. Weil  
13 Deputy Attorney General  
14 For Plaintiffs People of the State of California

15 Dated: July 17, 2000

16 By: *John M. Burtis*  
17 Title: Director, Claims and Litigation

18 On behalf of Defendant:  
19 STOW MANUFACTURING CO.

20  
21 IT IS SO ORDERED, ADJUDGED, AND DECREED.

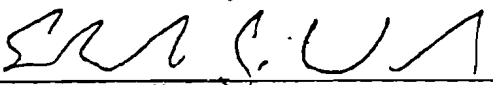
22 Dated: \_\_\_\_\_  
23 JUDGE OF THE SUPERIOR COURT  
24  
25  
26  
27

1 14. EXECUTION IN COUNTERPARTS

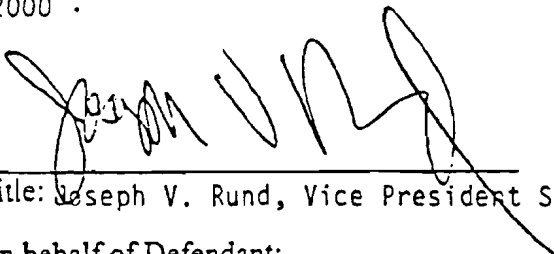
2 14.1. The stipulations to this Consent Judgment may be executed in counterparts and by  
3 means of facsimile, which taken together shall be deemed to constitute one document.

4 IT IS SO STIPULATED:

5 Dated: July 10, 2000 BILL LOCKYER  
6 Attorney General  
7 RICHARD M. FRANK  
8 Chief Assistant Attorney General  
9 CRAIG C. THOMPSON  
10 Acting Assistant Attorney General

11 By:   
12 Edward G. Weil  
13 Deputy Attorney General  
14 For Plaintiffs People of the State of California

15 Dated: July 28, 2000 .

16 By:   
17 Title: Joseph V. Rund, Vice President Sales & Marketing  
18 On behalf of Defendant:  
19 Echo Incorporated  
20 400 Oakwood Rd.  
21 Lake Zurich, IL 60047

22 IT IS SO ORDERED, ADJUDGED, AND DECREED.

23 Dated: \_\_\_\_\_  
24 JUDGE OF THE SUPERIOR COURT

1 14. EXECUTION IN COUNTERPARTS

2 14.1. The stipulations to this Consent Judgment may be executed in counterparts and by  
3 means of facsimile, which taken together shall be deemed to constitute one document.

4 IT IS SO STIPULATED:

5 Dated: July 10, 2000 BILL LOCKYER  
6 Attorney General  
7 RICHARD M. FRANK  
8 Chief Assistant Attorney General  
9 CRAIG C. THOMPSON  
10 Acting Assistant Attorney General

11 By: Edward G. Weil  
12 Deputy Attorney General  
13 For Plaintiffs People of the State of California

14 Dated: July 17, 2000

15 By: Richard A. White  
16 Title: President - Richard A. White  
17 On behalf of Defendant: Bullard ABRASIVE, INC

18  
19  
20  
21 IT IS SO ORDERED, ADJUDGED, AND DECREED.

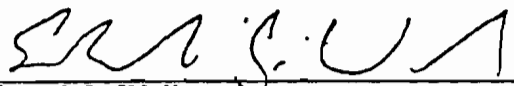
22 Dated: \_\_\_\_\_  
23 JUDGE OF THE SUPERIOR COURT  
24  
25  
26  
27

1 14. EXECUTION IN COUNTERPARTS


2 14.1. The stipulations to this Consent Judgment may be executed in counterparts and by  
3 means of facsimile, which taken together shall be deemed to constitute one document.

4 IT IS SO STIPULATED:

5 Dated: *July 10, 2000* BILL LOCKYER  
6 Attorney General  
7 RICHARD M. FRANK  
8 Chief Assistant Attorney General  
9 CRAIG C. THOMPSON  
10 Acting Assistant Attorney General

11 By:   
12 Edward G. Weil  
13 Deputy Attorney General  
14 For Plaintiffs People of the State of California

15 Dated: *July 28, 2000*

16 By:   
17 Title: *PRESIDENT HUSQVARNA*

18 On behalf of Defendant:  
19 Husqvarna Forest & Garden Co.,  
20 Division of WCI Outdoor Products, Inc.

21 IT IS SO ORDERED, ADJUDGED, AND DECREED.

22 Dated: \_\_\_\_\_  
23 JUDGE OF THE SUPERIOR COURT  
24  
25  
26  
27



1 14. EXECUTION IN COUNTERPARTS

2 14.1. The stipulations to this Consent Judgment may be executed in counterparts and by  
3 means of facsimile, which taken together shall be deemed to constitute one document.

4 IT IS SO STIPULATED:

5 Dated: July 10, 2000 BILL LOCKYER  
6 Attorney General  
7 RICHARD M. FRANK  
8 Chief Assistant Attorney General  
9 CRAIG C. THOMPSON  
10 Acting Assistant Attorney General

11 By: Edward G. Weil  
12 Edward G. Weil  
13 Deputy Attorney General  
14 For Plaintiffs People of the State of California

15 Dated: AUGUST 1, 2000.

16 PARTNER INDUSTRIAL PRODUCTS, DIVISION OF WCI  
17 OUTDOOR PRODUCTS, INC.  
18 By: Wenman Gurtay  
19 Title: President  
20 On behalf of Defendant: Partner Industrial Products

21 IT IS SO ORDERED, ADJUDGED, AND DECREED.

22 Dated: \_\_\_\_\_  
23 JUDGE OF THE SUPERIOR COURT  
24  
25  
26  
27

1 14. EXECUTION IN COUNTERPARTS

2 14.1. The stipulations to this Consent Judgment may be executed in counterparts and by  
3 means of facsimile, which taken together shall be deemed to constitute one document.

4 IT IS SO STIPULATED:

5 Dated: July 10, 2000 BILL LOCKYER  
6 Attorney General  
7 RICHARD M. FRANK  
8 Chief Assistant Attorney General  
9 CRAIG C. THOMPSON  
10 Acting Assistant Attorney General

11 By: Edward G. Weil  
12 Deputy Attorney General  
13 For Plaintiffs People of the State of California

14 Dated:

15  
16 By: <sup>RB</sup> Diane T. Nansen  
17 Title: Asst. General Counsel  
18 and Corporate Secretary  
19 On behalf of Defendant: TRUSERV CORPORATION

20  
21 IT IS SO ORDERED, ADJUDGED, AND DECREED.


22 Dated: \_\_\_\_\_  
23 JUDGE OF THE SUPERIOR COURT

1 14. EXECUTION IN COUNTERPARTS

2 14.1. The stipulations to this Consent Judgment may be executed in counterparts and by  
3 means of facsimile, which taken together shall be deemed to constitute one document.

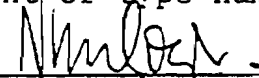
4 IT IS SO STIPULATED:

5 Dated: July 10, 2000 BILL LOCKYER  
6 Attorney General  
7 RICHARD M. FRANK  
8 Chief Assistant Attorney General  
9 CRAIG C. THOMPSON  
10 Acting Assistant Attorney General

11 By:   
12 Edward G. Weil  
13 Deputy Attorney General  
14 For Plaintiffs People of the State of California

15 Dated: 8/21/2000

16 NORMAN SUTHERLAND  
17 (Print or type name)

18 By:   
19 Title: President

20 On behalf of Defendant:  
21 Global Material Technologies, Inc.  
22 (incorrectly sued herein as Rhodes American)

23 IT IS SO ORDERED, ADJUDGED, AND DECREED.

24 Dated: \_\_\_\_\_  
25 JUDGE OF THE SUPERIOR COURT

1 14. EXECUTION IN COUNTERPARTS

2 14.1. The stipulations to this Consent Judgment may be executed in counterparts and by  
3 means of facsimile, which taken together shall be deemed to constitute one document.

4 IT IS SO STIPULATED:

5 Dated: *July 10, 2000* BILL LOCKYER  
6 Attorney General  
7 RICHARD M. FRANK  
8 Chief Assistant Attorney General  
9 CRAIG C. THOMPSON  
10 Acting Assistant Attorney General

11 By: *Edward G. Weil*  
12 Edward G. Weil  
13 Deputy Attorney General  
14 For Plaintiffs People of the State of California

15 Dated: *August 2, 2000*

16 By: *Roger Allen* ROGER ALLEN  
17 Title: *GENERAL MANAGER*  
18 On behalf of Defendant: *Cushion Cut, Inc*

19  
20  
21 IT IS SO ORDERED, ADJUDGED, AND DECREED.

22  
23 Dated:

24 JUDGE OF THE SUPERIOR COURT  
25  
26  
27

1 14. EXECUTION IN COUNTERPARTS

2 14.1. The stipulations to this Consent Judgment may be executed in counterparts and by  
3 means of facsimile, which taken together shall be deemed to constitute one document.

4 IT IS SO STIPULATED:

5 Dated: *July 10, 2000* BILL LOCKYER  
6 Attorney General  
7 RICHARD M. FRANK  
8 Chief Assistant Attorney General  
9 CRAIG C. THOMPSON  
10 Acting Assistant Attorney General

11 By: *Edward G. Weil*  
12 Edward G. Weil  
13 Deputy Attorney General  
14 For Plaintiffs People of the State of California

15 Dated:

16 By: *[Signature]*  
17 Title: *Senior Counsel*  
18 On behalf of Defendant: *Newton Company*

19  
20  
21 IT IS SO ORDERED, ADJUDGED, AND DECREED.

22 Dated: \_\_\_\_\_  
23 JUDGE OF THE SUPERIOR COURT  
24  
25  
26  
27

1 14. EXECUTION IN COUNTERPARTS

2 14.1. The stipulations to this Consent Judgment may be executed in counterparts and by  
3 means of facsimile, which taken together shall be deemed to constitute one document.

4 IT IS SO STIPULATED:

5 Dated: July 10, 2000 BILL LOCKYER  
6 Attorney General  
7 RICHARD M. FRANK  
8 Chief Assistant Attorney General  
9 CRAIG C. THOMPSON  
10 Acting Assistant Attorney General

11 By: Edward G. Weil  
12 Edward G. Weil  
13 Deputy Attorney General  
14 For Plaintiffs People of the State of California

15 Dated: July 27, 2000

16 By: Gary Morikawa  
17 Title: GARY MORIKAWA, PRESIDENT  
18 On behalf of Defendant: MAKITA U.S.A., INC.

19  
20  
21 IT IS SO ORDERED, ADJUDGED, AND DECREED.

22  
23 Dated: \_\_\_\_\_  
24 JUDGE OF THE SUPERIOR COURT  
25  
26  
27

1 14. EXECUTION IN COUNTERPARTS

2 14.1. The stipulations to this Consent Judgment may be executed in counterparts and by  
3 means of facsimile, which taken together shall be deemed to constitute one document.

4 IT IS SO STIPULATED:

5 Dated: *July 10, 2000* BILL LOCKYER  
6 Attorney General  
7 RICHARD M. FRANK  
8 Chief Assistant Attorney General  
9 CRAIG C. THOMPSON  
10 Acting Assistant Attorney General

11 By: *Edward G. Weil*  
12 Edward G. Weil  
13 Deputy Attorney General  
14 For Plaintiffs People of the State of California

15 Dated: July 27, 2000

16 By: *Curtis Hagerstedt*  
17 Title: General Manager

18 On behalf of Defendant: John Deere Consumer Products, Inc..

19  
20  
21 IT IS SO ORDERED, ADJUDGED, AND DECREED.

22  
23 Dated: \_\_\_\_\_  
24 JUDGE OF THE SUPERIOR COURT

1 14. EXECUTION IN COUNTERPARTS

2 14.1. The stipulations to this Consent Judgment may be executed in counterparts and by  
3 means of facsimile, which taken together shall be deemed to constitute one document.

4 IT IS SO STIPULATED:

5 Dated: July 10, 2000 BILL LOCKYER  
6 Attorney General  
7 RICHARD M. FRANK  
8 Chief Assistant Attorney General  
9 CRAIG C. THOMPSON  
10 Acting Assistant Attorney General

11 By: Edward G. Weil  
12 Deputy Attorney General  
13 For Plaintiffs People of the State of California

14 Dated: July 26, 2000

15 By: Christopher J. McElroy  
16 Title: Senior Corporate Counsel  
17 On behalf of Defendant: United States Gypsum Company

18  
19  
20  
21 IT IS SO ORDERED, ADJUDGED, AND DECREED.

22  
23 Dated: \_\_\_\_\_  
24 JUDGE OF THE SUPERIOR COURT




1 14. EXECUTION IN COUNTERPARTS

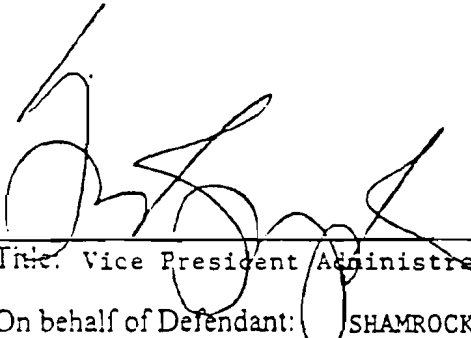
2 14.1. The stipulations to this Consent Judgment may be executed in counterparts and by  
3 means of facsimile, which taken together shall be deemed to constitute one document.

4 IT IS SO STIPULATED:

5 Dated: *July 10, 2000* BILL LOCKYER  
6 Attorney General  
7 RICHARD M. FRANK  
8 Chief Assistant Attorney General  
9 CRAIG C. THOMPSON  
10 Acting Assistant Attorney General

11 By:   
12 Edward G. Weil  
13 Deputy Attorney General  
14 For Plaintiffs People of the State of California

15 Dated:

16 By:   
17 Title: Vice President Administration  
18 On behalf of Defendant: SHAMROCK MATERIALS, INC.

19  
20  
21 IT IS SO ORDERED, ADJUDGED, AND DECREED.

22 Dated:

23 JUDGE OF THE SUPERIOR COURT

1 14. EXECUTION IN COUNTERPARTS

2 14.1. The stipulations to this Consent Judgment may be executed in counterparts and by  
3 means of facsimile, which taken together shall be deemed to constitute one document.

4 IT IS SO STIPULATED:

5 Dated: July 10, 2000 BILL LOCKYER  
6 Attorney General  
7 RICHARD M. FRANK  
8 Chief Assistant Attorney General  
9 CRAIG C. THOMPSON  
10 Acting Assistant Attorney General

11 By: [Signature]  
12 Edward G. Weil  
13 Deputy Attorney General  
14 For Plaintiffs People of the State of California

15 Dated: July 31, 2000.

16 **LEGAL**

17 By: [Signature]  
18 Title: TRES

19 On behalf of Defendant: ORCHARD SUPPLY HARDWARE STORES CORPORATE

20  
21 IT IS SO ORDERED, ADJUDGED, AND DECREED.

22  
23 Dated: \_\_\_\_\_  
24 JUDGE OF THE SUPERIOR COURT

1 14. EXECUTION IN COUNTERPARTS

2 14.1. The stipulations to this Consent Judgment may be executed in counterparts and by  
3 means of facsimile, which taken together shall be deemed to constitute one document.

4 IT IS SO STIPULATED:

5 Dated: July 10, 2000 BILL LOCKYER  
6 Attorney General  
7 RICHARD M. FRANK  
8 Chief Assistant Attorney General  
9 CRAIG C. THOMPSON  
10 Acting Assistant Attorney General

11 By: Edward G. Weil  
12 Deputy Attorney General  
13 For Plaintiffs People of the State of California

14 Dated: July 31, 2000.

15 SEC  
16 LEGAL

17 By: Shira McComb  
18 Title: VP AND DEPUTY GENERAL COUNSEL  
19 On behalf of Defendant: SEARS ROEBUCK & CO.

20  
21 IT IS SO ORDERED, ADJUDGED, AND DECREED.

22 Dated: \_\_\_\_\_  
23 JUDGE OF THE SUPERIOR COURT  
24  
25  
26  
27

1 14. EXECUTION IN COUNTERPARTS

2 14.1. The stipulations to this Consent Judgment may be executed in counterparts and by  
3 means of facsimile, which taken together shall be deemed to constitute one document.

4 IT IS SO STIPULATED:

5 Dated: July 10, 2000 BILL LOCKYER  
6 Attorney General  
7 RICHARD M. FRANK  
8 Chief Assistant Attorney General  
9 CRAIG C. THOMPSON  
10 Acting Assistant Attorney General

11 By: Edward G. Weil  
12 Edward G. Weil  
13 Deputy Attorney General  
14 For Plaintiffs People of the State of California

15 Dated: July 24, 2000  
16 Tom Anderson  
17 FORNEY INDUSTRIES  
18 By: President  
19 Title:

20 On behalf of Defendant:

21 IT IS SO ORDERED, ADJUDGED, AND DECREED.

22 Dated: \_\_\_\_\_  
23 JUDGE OF THE SUPERIOR COURT  
24  
25  
26  
27

1 14. EXECUTION IN COUNTERPARTS

2 14.1. The stipulations to this Consent Judgment may be executed in counterparts and by  
3 means of facsimile, which taken together shall be deemed to constitute one document.

4 IT IS SO STIPULATED:

5 Dated: July 10, 2000 BILL LOCKYER  
6 Attorney General  
7 RICHARD M. FRANK  
8 Chief Assistant Attorney General  
9 CRAIG C. THOMPSON  
10 Acting Assistant Attorney General

11 By: Edward G. Weil  
12 Edward G. Weil  
13 Deputy Attorney General  
14 For Plaintiffs People of the State of California

15 Dated: July 21, 2000 .

16 By: Frans Roodenberg  
17 Title: President  
18 Frans Roodenberg  
19 On behalf of Defendant:  
20 Hokanson Building Block Co.,  
21 Pavestone California LLC

22 IT IS SO ORDERED, ADJUDGED, AND DECREED.


23 Dated: \_\_\_\_\_  
24 JUDGE OF THE SUPERIOR COURT  
25  
26  
27

1 14. EXECUTION IN COUNTERPARTS

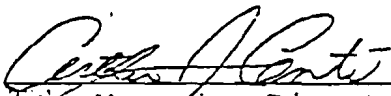
2 14.1. The stipulations to this Consent Judgment may be executed in counterparts and by  
3 means of facsimile, which taken together shall be deemed to constitute one document.

4 IT IS SO STIPULATED:

5 Dated: *July 10, 2000* BILL LOCKYER  
6 Attorney General  
7 RICHARD M. FRANK  
8 Chief Assistant Attorney General  
9 CRAIG C. THOMPSON  
10 Acting Assistant Attorney General

11 By:   
12 Edward G. Weil  
13 Deputy Attorney General  
14 For Plaintiffs People of the State of California

15 Dated: July 21, 2000 .

16 By:   
17 Title: Managing Director  
18 Arthur J. Conti  
19 On behalf of Defendant:  
20 Allied Cement Company, A California Limited  
21 Partnership by CPC Terminals, Inc., A California *Corp.*  
22 *its* General Partner

23 IT IS SO ORDERED, ADJUDGED, AND DECREED.


24 Dated: \_\_\_\_\_  
25 JUDGE OF THE SUPERIOR COURT  
26  
27

1 14. EXECUTION IN COUNTERPARTS

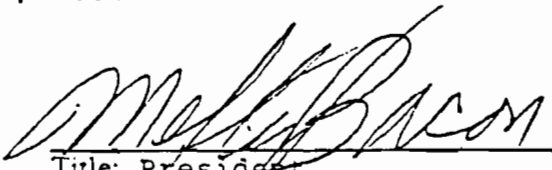
2 14.1. The stipulations to this Consent Judgment may be executed in counterparts and by  
3 means of facsimile, which taken together shall be deemed to constitute one document.

4 IT IS SO STIPULATED:

5 Dated: July 10, 2000 BILL LOCKYER  
6 Attorney General  
7 RICHARD M. FRANK  
8 Chief Assistant Attorney General  
9 CRAIG C. THOMPSON  
10 Acting Assistant Attorney General

11 By:   
12 Edward G. Weil  
13 Deputy Attorney General  
14 For Plaintiffs People of the State of California

15 Dated: July 24, 2000

16 By:   
17 Title: President  
18 Melton Bacon  
19 On behalf of Defendant:  
20 Coronado Stone Products

21 IT IS SO ORDERED, ADJUDGED, AND DECREED.

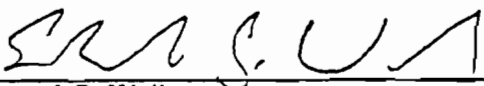
22 Dated: \_\_\_\_\_  
23 JUDGE OF THE SUPERIOR COURT  
24  
25  
26  
27

1 14. EXECUTION IN COUNTERPARTS

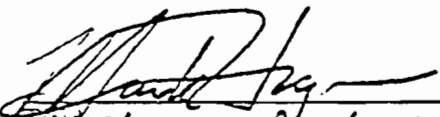
2 14.1. The stipulations to this Consent Judgment may be executed in counterparts and by  
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4 IT IS SO STIPULATED:

5 Dated: *July 10, 2000* BILL LOCKYER  
6 Attorney General  
7 RICHARD M. FRANK  
8 Chief Assistant Attorney General  
9 CRAIG C. THOMPSON  
10 Acting Assistant Attorney General

11 By:   
12 Edward G. Weil  
13 Deputy Attorney General  
14 For Plaintiffs People of the State of California

15 Dated: July 28, 2000.

16 By:  Mark Ingram  
17 Title: *Managing Director, Operational Services*  
18 On behalf of Defendant:  
19 *Pacific Coast Building Products, Inc.*

20  
21 IT IS SO ORDERED, ADJUDGED, AND DECREED.

22 Dated: \_\_\_\_\_  
23 JUDGE OF THE SUPERIOR COURT  
24  
25  
26  
27




1 14. EXECUTION IN COUNTERPARTS

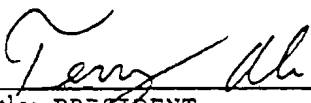
2 14.1. The stipulations to this Consent Judgment may be executed in counterparts and by  
3 means of facsimile, which taken together shall be deemed to constitute one document.

4 IT IS SO STIPULATED:

5 Dated: July 10, 2000 BILL LOCKYER  
6 Attorney General  
7 RICHARD M. FRANK  
8 Chief Assistant Attorney General  
9 CRAIG C. THOMPSON  
10 Acting Assistant Attorney General

11 By:   
12 Edward G. Weil  
13 Deputy Attorney General  
14 For Plaintiffs People of the State of California

15 Dated: JULY 21, 2000

16 By:   
17 Title: PRESIDENT

18 On behalf of Defendant: ALI INDUSTRIES, INC.

19  
20  
21 IT IS SO ORDERED, ADJUDGED, AND DECREED.

22 Dated: \_\_\_\_\_  
23 JUDGE OF THE SUPERIOR COURT  
24  
25  
26  
27

1 14. EXECUTION IN COUNTERPARTS

2 14.1. The stipulations to this Consent Judgment may be executed in counterparts and by  
3 means of facsimile, which taken together shall be deemed to constitute one document.

4 IT IS SO STIPULATED:

5 Dated: July 10, 2000 BILL LOCKYER  
6 Attorney General  
7 RICHARD M. FRANK  
8 Chief Assistant Attorney General  
9 CRAIG C. THOMPSON  
10 Acting Assistant Attorney General

11 By: Edward G. Weil  
12 Edward G. Weil  
13 Deputy Attorney General  
14 For Plaintiffs People of the State of California

15 Dated:

16 By: Phaedra  
17 Title: President and COO

18 On behalf of Defendant: S-B Power Tool Company, incorrectly  
19 named in this Complaint as "Bosch Power, Div. of SB Power  
20 Tool Co., Dremel, Skil, Div. of S-B Power Tool Co.

21 IT IS SO ORDERED, ADJUDGED, AND DECREED.

22 Dated:

23 JUDGE OF THE SUPERIOR COURT

1 14. EXECUTION IN COUNTERPARTS

2 14.1. The stipulations to this Consent Judgment may be executed in counterparts and by  
3 means of facsimile, which taken together shall be deemed to constitute one document.

4 IT IS SO STIPULATED:

5 Dated: July 10, 2000 BILL LOCKYER  
6 Attorney General  
7 RICHARD M. FRANK  
8 Chief Assistant Attorney General  
9 CRAIG C. THOMPSON  
10 Acting Assistant Attorney General

11 By: Edward G. Weil  
12 Edward G. Weil  
13 Deputy Attorney General  
14 For Plaintiffs People of the State of California

15 Dated: MICHAEL H. HYER

16 7/25/00

17 By: Michael H. Hyer  
18 Title: Vice President

19 On behalf of Defendant: Kaiser Cement Corporation,  
20 now known as Hanson Permanente Cement, Inc.

21 IT IS SO ORDERED, ADJUDGED, AND DECREED.


22 Dated: JUDGE OF THE SUPERIOR COURT

1 14. EXECUTION IN COUNTERPARTS

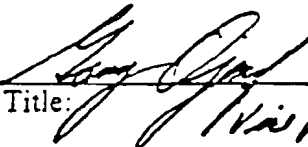
2 14.1. The stipulations to this Consent Judgment may be executed in counterparts and by  
3 means of facsimile, which taken together shall be deemed to constitute one document.

4 IT IS SO STIPULATED:

5 Dated: July 10, 2000 BILL LOCKYER  
6 Attorney General  
7 RICHARD M. FRANK  
8 Chief Assistant Attorney General  
9 CRAIG C. THOMPSON  
10 Acting Assistant Attorney General

11 By:   
12 Edward G. Weil  
13 Deputy Attorney General  
14 For Plaintiffs People of the State of California

15 Dated:

16 By:   
17 Title: Vis President  
18 On behalf of Defendant: COSTCO WHOLESALE

19  
20  
21 IT IS SO ORDERED, ADJUDGED, AND DECREED.

22 Dated:


23 JUDGE OF THE SUPERIOR COURT  
24  
25  
26  
27

1 14. EXECUTION IN COUNTERPARTS

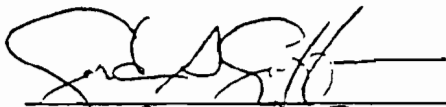
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3 means of facsimile, which taken together shall be deemed to constitute one document.

4 IT IS SO STIPULATED:

5 Dated: July 10, 2000 BILL LOCKYER  
6 Attorney General  
7 RICHARD M. FRANK  
8 Chief Assistant Attorney General  
9 CRAIG C. THOMPSON  
10 Acting Assistant Attorney General

11 By:   
12 Edward G. Weil  
13 Deputy Attorney General  
14 For Plaintiffs People of the State of California

15 Dated:

16 By:   
17 Title: GORDON A. GRIFFIN  
18 CONTROLLER  
19 On behalf of Defendant:  
20 Yardbirds Electric & Plumbing Supply

21 IT IS SO ORDERED, ADJUDGED, AND DECREED.

22 Dated:


23 JUDGE OF THE SUPERIOR COURT

1 14. EXECUTION IN COUNTERPARTS

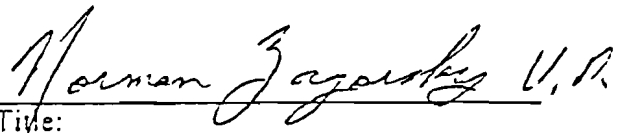
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3 means of facsimile, which taken together shall be deemed to constitute one document.

4 IT IS SO STIPULATED:

5 Dated: July 10, 2000 BILL LOCKYER  
6 Attorney General  
7 RICHARD M. FRANK  
8 Chief Assistant Attorney General  
9 CRAIG C. THOMPSON  
10 Acting Assistant Attorney General

11 By:   
12 Edward G. Weil  
13 Deputy Attorney General  
14 For Plaintiffs People of the State of California

15 Dated: TREND-LINES, INC. dba POST TOOL

16 By:   
17 Title:  
18 On behalf of Defendant: Trend Lines, Inc., dba Post Tool

19  
20  
21 IT IS SO ORDERED, ADJUDGED, AND DECREED.

22 Dated: JUDGE OF THE SUPERIOR COURT

1 14. EXECUTION IN COUNTERPARTS

2 14.1. The stipulations to this Consent Judgment may be executed in counterparts and by  
3 means of facsimile, which taken together shall be deemed to constitute one document.

4 IT IS SO STIPULATED:

5 Dated: *July 10, 2000* BILL LOCKYER  
6 Attorney General  
7 RICHARD M. FRANK  
8 Chief Assistant Attorney General  
9 CRAIG C. THOMPSON  
10 Acting Assistant Attorney General

11 By: *Edward G. Weil*  
12 Edward G. Weil  
13 Deputy Attorney General  
14 For Plaintiffs People of the State of California

15 Dated: *8/24/00*

16 By: *William B...*  
17 Title: Executive Vice President Operations  
18 On behalf of Defendant: *Glit, Inc.*

19 IT IS SO ORDERED, ADJUDGED, AND DECREED.

20 Dated: \_\_\_\_\_  
21 JUDGE OF THE SUPERIOR COURT

1 14. EXECUTION IN COUNTERPARTS

2 14.1. The stipulations to this Consent Judgment may be executed in counterparts and by  
3 means of facsimile, which taken together shall be deemed to constitute one document.

4 IT IS SO STIPULATED:

5 Dated: July 10, 2000 BILL LOCKYER  
6 Attorney General  
7 RICHARD M. FRANK  
8 Chief Assistant Attorney General  
9 CRAIG C. THOMPSON  
10 Acting Assistant Attorney General

11 By: [Signature]  
12 Edward G. Weil  
13 Deputy Attorney General  
14 For Plaintiffs People of the State of California

15 Dated:

16 By: [Signature]  
17 Title: David P. Levine, Divisional Vice President  
18 On behalf of Defendant: Kmart Corporation

19 IT IS SO ORDERED, ADJUDGED, AND DECREED.

20 Dated:

21 JUDGE OF THE SUPERIOR COURT

|                   |              |         |           |            |   |
|-------------------|--------------|---------|-----------|------------|---|
| Post-It® Fax Note | 7671         | Date    | 8/24      | # of pages | 1 |
| To                | M. Steel     | From    | C. Haines |            |   |
| Co.               | Fallsbury    | Co.     | Kmart     |            |   |
| Phone #           |              | Phone # |           |            |   |
| Fax #             | 715 938-1200 | Fax #   |           |            |   |

22 CONSENT JUDGMENT




1 14. EXECUTION IN COUNTERPARTS


2 14.1. The stipulations to this Consent Judgment may be executed in counterparts and by  
3 means of facsimile, which taken together shall be deemed to constitute one document.

4 IT IS SO STIPULATED:

5 Dated: July 10, 2000 BILL LOCKYER  
6 Attorney General  
7 RICHARD M. FRANK  
8 Chief Assistant Attorney General  
9 CRAIG C. THOMPSON  
10 Acting Assistant Attorney General

11 By:   
12 Edward G. Weil  
13 Deputy Attorney General  
14 For Plaintiffs People of the State of California

15 Dated:

16 By:  (Daniel Hatch)  
17 Title: SENIOR CORPORATE COUNSEL  
18 On behalf of Defendant: HOME DEPOT U.S.A., INC.

19  
20  
21 IT IS SO ORDERED, ADJUDGED, AND DECREED.

22 Dated:

23 JUDGE OF THE SUPERIOR COURT

1 14. EXECUTION IN COUNTERPARTS

2 14.1. The stipulations to this Consent Judgment may be executed in counterparts and by  
3 means of facsimile, which taken together shall be deemed to constitute one document.

4 IT IS SO STIPULATED:

5 Dated: July 10, 2000 BILL LOCKYER  
6 Attorney General  
7 RICHARD M. FRANK  
8 Chief Assistant Attorney General  
9 CRAIG C. THOMPSON  
10 Acting Assistant Attorney General

11 By: Edward G. Weil  
12 Edward G. Weil  
13 Deputy Attorney General  
14 For Plaintiffs People of the State of California

15 Dated:

16 By: John Price  
17 Title: John Price, General Counsel  
18 On behalf of Defendant: HomeBase, Inc.

19  
20  
21 IT IS SO ORDERED, ADJUDGED, AND DECREED.

22 Dated:

23 JUDGE OF THE SUPERIOR COURT

1 14. EXECUTION IN COUNTERPARTS

2 14.1. The stipulations to this Consent Judgment may be executed in counterparts and by  
3 means of facsimile, which taken together shall be deemed to constitute one document.

4 IT IS SO STIPULATED:

5 Dated: July 10, 2000 BILL LOCKYER  
6 Attorney General  
7 RICHARD M. FRANK  
8 Chief Assistant Attorney General  
9 CRAIG C. THOMPSON  
10 Acting Assistant Attorney General

11 By: [Signature]  
12 Edward G. Weil  
13 Deputy Attorney General  
14 For Plaintiffs People of the State of California

15 Dated: 8/29/2000

16 By: [Signature]  
17 Title: VICE PRESIDENT  
18 On behalf of Defendant: STHL INCORPORATED

19 IT IS SO ORDERED, ADJUDGED, AND DECREED.

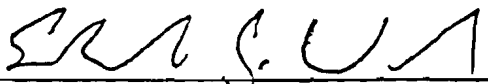
20 Dated: \_\_\_\_\_  
21 JUDGE OF THE SUPERIOR COURT

1 14. EXECUTION IN COUNTERPARTS

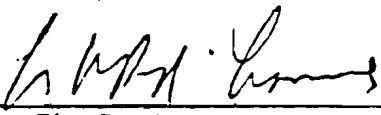
2 14.1. The stipulations to this Consent Judgment may be executed in counterparts and by  
3 means of facsimile, which taken together shall be deemed to constitute one document.

4 IT IS SO STIPULATED:

5 Dated: *July 10, 2000* BILL LOCKYER  
6 Attorney General  
7 RICHARD M. FRANK  
8 Chief Assistant Attorney General  
9 CRAIG C. THOMPSON  
10 Acting Assistant Attorney General

11 By:   
12 Edward G. Weil  
13 Deputy Attorney General  
14 For Plaintiffs People of the State of California

15 Dated: 14 AUGUST 2000

16 By:   
17 Title: Vice President, Chief Financial Officer  
18 (Laurence A. Prud'homme)  
19 On behalf of Defendant:  
20 Calaveras Cement Company

21 IT IS SO ORDERED, ADJUDGED, AND DECREED.

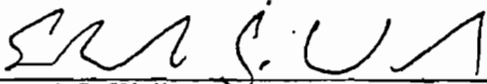
22 Dated: \_\_\_\_\_  
23 JUDGE OF THE SUPERIOR COURT

1 14. EXECUTION IN COUNTERPARTS

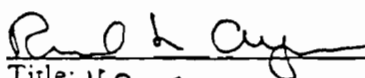
2 14.1. The stipulations to this Consent Judgment may be executed in counterparts and by  
3 means of facsimile, which taken together shall be deemed to constitute one document.

4 IT IS SO STIPULATED:

5 Dated: July 10, 2000 BILL LOCKYER  
6 Attorney General  
7 RICHARD M. FRANK  
8 Chief Assistant Attorney General  
9 CRAIG C. THOMPSON  
10 Acting Assistant Attorney General

11 By:   
12 Edward G. Weil  
13 Deputy Attorney General  
14 For Plaintiffs People of the State of California

15 Dated:

16 By:  7/18/00  
17 Title: VP OPERATIONS  
18 On behalf of Defendant: Air Vol Bkch, Inc.

19  
20  
21 IT IS SO ORDERED, ADJUDGED, AND DECREED.

22 Dated:


23 JUDGE OF THE SUPERIOR COURT  
24  
25  
26  
27

1 14. EXECUTION IN COUNTERPARTS


2 14.1. The stipulations to this Consent Judgment may be executed in counterparts and by  
3 means of facsimile, which taken together shall be deemed to constitute one document.

4 IT IS SO STIPULATED:

5 Dated: *July 10, 2000* BILL LOCKYER  
6 Attorney General  
7 RICHARD M. FRANK  
8 Chief Assistant Attorney General  
9 CRAIG C. THOMPSON  
10 Acting Assistant Attorney General

11 By:   
12 Edward G. Weil  
13 Deputy Attorney General  
14 For Plaintiffs People of the State of California

15 Dated: July 19, 2000

16   
17 By: Thomas A. Boardman  
18 Title: Deputy General Counsel  
19 Assistant Secretary  
20 On behalf of Defendant:  
21 Minnesota Mining and Manufacturing Company

22 IT IS SO ORDERED, ADJUDGED, AND DECREED.

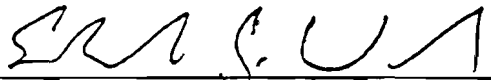
23 Dated: \_\_\_\_\_  
24 JUDGE OF THE SUPERIOR COURT

1 14. EXECUTION IN COUNTERPARTS


2 14.1. The stipulations to this Consent Judgment may be executed in counterparts and by  
3 means of facsimile, which taken together shall be deemed to constitute one document.

4 IT IS SO STIPULATED:

5 Dated: *July 10, 2000* BILL LOCKYER  
6 Attorney General  
7 RICHARD M. FRANK  
8 Chief Assistant Attorney General  
9 CRAIG C. THOMPSON  
10 Acting Assistant Attorney General

11 By:   
12 Edward G. Weil  
13 Deputy Attorney General  
14 For Plaintiffs People of the State of California

15 Dated: July 12, 2000

16 By:   
17 Daniel M. Campbell  
18 Title: Chairman of the Board

19 On behalf of Defendant: Truestone Block, Inc.

20  
21 IT IS SO ORDERED, ADJUDGED, AND DECREED.

22 Dated: \_\_\_\_\_  
23 JUDGE OF THE SUPERIOR COURT  
24  
25  
26  
27

1 14. EXECUTION IN COUNTERPARTS

2 14.1. The stipulations to this Consent Judgment may be executed in counterparts and by  
3 means of facsimile, which taken together shall be deemed to constitute one document.

4 IT IS SO STIPULATED:

5 Dated: BILL LOCKYER  
6 Attorney General  
7 RICHARD M. FRANK  
8 Chief Assistant Attorney General  
9 CRAIG THOMPSON  
10 Acting Assistant Attorney General

11 By: \_\_\_\_\_  
12 Edward G. Weil  
13 Deputy Attorney General  
14 For Plaintiffs People of the State of California

15 Dated: August 2, 2000 .

16 By: John J. Van Zyl  
17 Title: Senior Attorney  
18 On behalf of Defendant  
19 Ace Hardware Corp.

20  
21 IT IS SO ORDERED, ADJUDGED, AND DECREED.

22 Dated: \_\_\_\_\_  
23 JUDGE OF THE SUPERIOR COURT

24  
25  
26  
27



1 14. EXECUTION IN COUNTERPARTS

2 14.1. The stipulations to this Consent Judgment may be executed in counterparts and by  
3 means of facsimile, which taken together shall be deemed to constitute one document.

4 IT IS SO STIPULATED:

5 Dated: BILL LOCKYER  
6 Attorney General  
7 RICHARD M. FRANK  
8 Chief Assistant Attorney General  
9 CRAIG THOMPSON  
Acting Assistant Attorney General

10 By: \_\_\_\_\_  
11 Edward G. Weil  
12 Deputy Attorney General  
13 For Plaintiffs People of the State of California

14 Dated:

15 By: W. Hoese  
16 Title: WILLIAM L. HOESE  
CORPORATE VICE PRESIDENT - GENERAL COUNSEL  
17 On behalf of Defendant  
18 American Tool Co., Inc.

19  
20  
21 IT IS SO ORDERED, ADJUDGED, AND DECREED.

22 Dated: \_\_\_\_\_  
23 JUDGE OF THE SUPERIOR COURT  
24  
25  
26  
27

1 14. EXECUTION IN COUNTERPARTS

2 14.1. The stipulations to this Consent Judgment may be executed in counterparts and by  
3 means of facsimile, which taken together shall be deemed to constitute one document.

4 IT IS SO STIPULATED:

5 Dated: BILL LOCKYER  
6 Attorney General  
7 RICHARD M. FRANK  
8 Chief Assistant Attorney General  
9 CRAIG THOMPSON  
10 Acting Assistant Attorney General

11 By: \_\_\_\_\_  
12 Edward G. Weil  
13 Deputy Attorney General  
14 For Plaintiffs People of the State of California

15 Dated: *July 31, 2000*

16 By: *Tobi Castell, U.S.*  
17 Title: *Vice-President*  
18 On behalf of Defendant  
19 Atkinson Brick Co.

20  
21 IT IS SO ORDERED, ADJUDGED, AND DECREED.

22 Dated: \_\_\_\_\_  
23 JUDGE OF THE SUPERIOR COURT  
24  
25  
26  
27

1 14. EXECUTION IN COUNTERPARTS

2 14.1. The stipulations to this Consent Judgment may be executed in counterparts and by  
3 means of facsimile, which taken together shall be deemed to constitute one document.

4 IT IS SO STIPULATED:

5 Dated: BILL LOCKYER  
6 Attorney General  
7 RICHARD M. FRANK  
8 Chief Assistant Attorney General  
9 CRAIG THOMPSON  
10 Acting Assistant Attorney General

11 By: \_\_\_\_\_  
12 Edward G. Weil  
13 Deputy Attorney General  
14 For Plaintiffs People of the State of California

15 Dated: July 31, 2000

16 By: *Linda P. Bisgiov*  
17 Title: Vice President  
18 On behalf of Defendant  
19 Black & Decker (U.S.), Inc.

20  
21 IT IS SO ORDERED, ADJUDGED, AND DECREED.

22 Dated: \_\_\_\_\_  
23 JUDGE OF THE SUPERIOR COURT  
24  
25  
26  
27

1 14. EXECUTION IN COUNTERPARTS


2 14.1. The stipulations to this Consent Judgment may be executed in counterparts and by  
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4 IT IS SO STIPULATED:

5 Dated: BILL LOCKYER  
6 Attorney General  
7 RICHARD M. FRANK  
8 Chief Assistant Attorney General  
9 CRAIG THOMPSON  
10 Acting Assistant Attorney General

11 By: \_\_\_\_\_  
12 Edward G. Weil  
13 Deputy Attorney General  
14 For Plaintiffs People of the State of California

15 Dated:

16 By:  \_\_\_\_\_  
17 Title: Secretary  
18 On behalf of Defendant  
19 Calstone Company

20  
21 IT IS SO ORDERED, ADJUDGED, AND DECREED.

22 Dated: \_\_\_\_\_  
23 JUDGE OF THE SUPERIOR COURT  
24

25  
26  
27

1 14. EXECUTION IN COUNTERPARTS


2 14.1. The stipulations to this Consent Judgment may be executed in counterparts and by  
3 means of facsimile, which taken together shall be deemed to constitute one document.

4 IT IS SO STIPULATED:

5 Dated: BILL LOCKYER  
6 Attorney General  
7 RICHARD M. FRANK  
8 Chief Assistant Attorney General  
9 CRAIG THOMPSON  
10 Acting Assistant Attorney General

11 By: \_\_\_\_\_  
12 Edward G. Weil  
13 Deputy Attorney General  
14 For Plaintiffs People of the State of California

15 Dated:

16 By:   
17 Title: CONTROLLER  
18 On behalf of Defendant  
19 Castaic Brick Manufacturing Co.

20  
21 IT IS SO ORDERED, ADJUDGED, AND DECREED.

22 Dated: \_\_\_\_\_  
23 JUDGE OF THE SUPERIOR COURT  
24  
25  
26  
27

1 14. EXECUTION IN COUNTERPARTS

2 14.1. The stipulations to this Consent Judgment may be executed in counterparts and by  
3 means of facsimile, which taken together shall be deemed to constitute one document.

4 IT IS SO STIPULATED:

5 Dated: BILL LOCKYER  
6 Attorney General  
7 RICHARD M. FRANK  
8 Chief Assistant Attorney General  
9 CRAIG THOMPSON  
10 Acting Assistant Attorney General

11 By: \_\_\_\_\_  
12 Edward G. Weil  
13 Deputy Attorney General  
14 For Plaintiffs People of the State of California

15 Dated: *AUG. 7, 2000*

16 By: *Sammy Boyd*  
17 Title: *VICE PRESIDENT, FINANCE*  
18 On behalf of Defendant  
19 Delta International Machinery Corp.

20  
21 IT IS SO ORDERED, ADJUDGED, AND DECREED.

22 Dated: \_\_\_\_\_  
23 JUDGE OF THE SUPERIOR COURT  
24  
25  
26  
27

1 14. EXECUTION IN COUNTERPARTS

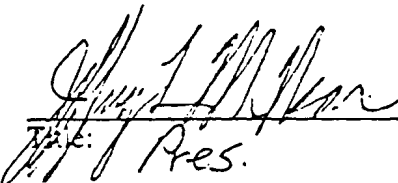
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3 means of facsimile, which taken together shall be deemed to constitute one document.

4 IT IS SO STIPULATED:

5 Dated: BILL LOCKYER  
6 Attorney General  
7 RICHARD M. FRANK  
8 Chief Assistant Attorney General  
9 CRAIG THOMPSON  
10 Acting Assistant Attorney General

11 By: \_\_\_\_\_  
12 Edward G. Weil  
13 Deputy Attorney General  
14 For Plaintiffs People of the State of California

15 Dated:

16 By:  \_\_\_\_\_  
17 Title: Pres.  
18 On behalf of Defendant L. P. McNear Brick  
19 Co., Inc. (dba McNear Brick & Block,  
20 sued as McNear Brick Company)

21  
22 IT IS SO ORDERED, ADJUDGED, AND DECREED.

23 Dated: \_\_\_\_\_  
24 JUDGE OF THE SUPERIOR COURT  
25  
26  
27

1 14. EXECUTION IN COUNTERPARTS


2 14.1. The stipulations to this Consent Judgment may be executed in counterparts and by  
3 means of facsimile, which taken together shall be deemed to constitute one document.

4 IT IS SO STIPULATED:

5 Dated: BILL LOCKYER  
6 Attorney General  
7 RICHARD M. FRANK  
8 Chief Assistant Attorney General  
9 CRAIG THOMPSON  
10 Acting Assistant Attorney General

11 By: \_\_\_\_\_  
12 Edward G. Weil  
13 Deputy Attorney General  
14 For Plaintiffs People of the State of California

15 Dated:

16 By:   
17 Title: VICE PRESIDENT  
18 PRODUCT DEVELOPMENT + TECHNOLOGY  
19 On behalf of Defendant  
20 Milwaukee Electric Tool Corporation

21 IT IS SO ORDERED, ADJUDGED, AND DECREED.

22 Dated: \_\_\_\_\_  
23 JUDGE OF THE SUPERIOR COURT  
24  
25  
26  
27



1 14. EXECUTION IN COUNTERPARTS

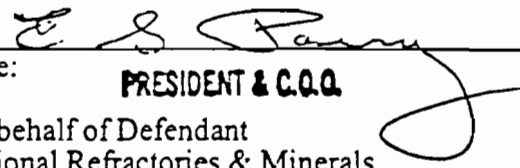
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4 IT IS SO STIPULATED:

5 Dated: BILL LOCKYER  
6 Attorney General  
7 RICHARD M. FRANK  
8 Chief Assistant Attorney General  
9 CRAIG THOMPSON  
10 Acting Assistant Attorney General

11 By: \_\_\_\_\_  
12 Edward G. Weil  
13 Deputy Attorney General  
14 For Plaintiffs People of the State of California

15 Dated:

16 By:   
17 Title: PRESIDENT & C.O.O.  
18 On behalf of Defendant  
19 National Refractories & Minerals

20  
21 IT IS SO ORDERED, ADJUDGED, AND DECREED.

22 Dated: \_\_\_\_\_  
23 JUDGE OF THE SUPERIOR COURT  
24  
25  
26  
27

1 14. EXECUTION IN COUNTERPARTS

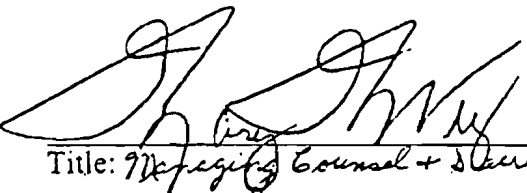
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3 means of facsimile, which taken together shall be deemed to constitute one document.

4 IT IS SO STIPULATED:

5 Dated: BILL LOCKYER  
6 Attorney General  
7 RICHARD M. FRANK  
8 Chief Assistant Attorney General  
9 CRAIG THOMPSON  
10 Acting Assistant Attorney General

11 By: \_\_\_\_\_  
12 Edward G. Weil  
13 Deputy Attorney General  
14 For Plaintiffs People of the State of California

15 Dated:

16 By:   
17 Title: *Managing Counsel + Secretary*  
18 On behalf of Defendant  
19 North American Refractories Company

20  
21 IT IS SO ORDERED, ADJUDGED, AND DECREED.

22 Dated: \_\_\_\_\_  
23 JUDGE OF THE SUPERIOR COURT  
24  
25  
26  
27

1 14. EXECUTION IN COUNTERPARTS

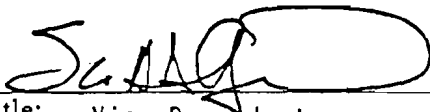
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3 means of facsimile, which taken together shall be deemed to constitute one document.

4 IT IS SO STIPULATED:

5 Dated: BILL LOCKYER  
6 Attorney General  
7 RICHARD M. FRANK  
8 Chief Assistant Attorney General  
9 CRAIG THOMPSON  
10 Acting Assistant Attorney General

11 By: \_\_\_\_\_  
12 Edward G. Weil  
13 Deputy Attorney General  
14 For Plaintiffs People of the State of California

15 Dated:

16 By:  \_\_\_\_\_  
17 Title: Vice President  
18 On behalf of Defendant  
19 Pacific Clay Brick Co.

20  
21 IT IS SO ORDERED, ADJUDGED, AND DECREED.

22 Dated: \_\_\_\_\_  
23 JUDGE OF THE SUPERIOR COURT  
24

25  
26  
27

1 14. EXECUTION IN COUNTERPARTS


2 14.1. The stipulations to this Consent Judgment may be executed in counterparts and by  
3 means of facsimile, which taken together shall be deemed to constitute one document.

4 IT IS SO STIPULATED:

5 Dated: BILL LOCKYER  
6 Attorney General  
7 RICHARD M. FRANK  
8 Chief Assistant Attorney General  
9 CRAIG THOMPSON  
10 Acting Assistant Attorney General

11 By: \_\_\_\_\_  
12 Edward G. Weil  
13 Deputy Attorney General  
14 For Plaintiffs People of the State of California

15 Dated:

16 By:  \_\_\_\_\_  
17 Title: Vice President & Chief Financial Officer  
18 On behalf of Defendant  
19 Pacific Holding Company

20  
21 IT IS SO ORDERED, ADJUDGED, AND DECREED.

22 Dated: \_\_\_\_\_  
23 JUDGE OF THE SUPERIOR COURT  
24  
25  
26  
27

1 14. EXECUTION IN COUNTERPARTS

2 14.1. The stipulations to this Consent Judgment may be executed in counterparts and by  
3 means of facsimile, which taken together shall be deemed to constitute one document.

4 IT IS SO STIPULATED:

5 Dated: BILL LOCKYER  
6 Attorney General  
7 RICHARD M. FRANK  
8 Chief Assistant Attorney General  
9 CRAIG THOMPSON  
Acting Assistant Attorney General

10 By: \_\_\_\_\_  
11 Edward G. Weil  
12 Deputy Attorney General  
13 For Plaintiffs People of the State of California

14 Dated: *AUG. 7, 2000*

15 By: *Sammy J. Boyd*  
16 Title: *VICE PRESIDENT, FINANCE*  
17 On behalf of Defendant  
18 Porter Cable Corporation

19  
20  
21 IT IS SO ORDERED, ADJUDGED, AND DECREED.

22 Dated: \_\_\_\_\_  
23 JUDGE OF THE SUPERIOR COURT  
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1 14. EXECUTION IN COUNTERPARTS


2 14.1. The stipulations to this Consent Judgment may be executed in counterparts and by  
3 means of facsimile, which taken together shall be deemed to constitute one document.

4 IT IS SO STIPULATED:

5 Dated: BILL LOCKYER  
6 Attorney General  
7 RICHARD M. FRANK  
8 Chief Assistant Attorney General  
9 CRAIG THOMPSON  
10 Acting Assistant Attorney General

11 By: \_\_\_\_\_  
12 Edward G. Weil  
13 Deputy Attorney General  
14 For Plaintiffs People of the State of California

15 Dated:

16 By:   
17 Title: James E. Winchester, President  
18 On behalf of Defendant  
19 The Quikrete Company, Inc.

20  
21 IT IS SO ORDERED, ADJUDGED, AND DECREED.

22 Dated: \_\_\_\_\_  
23 JUDGE OF THE SUPERIOR COURT  
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1 14. EXECUTION IN COUNTERPARTS

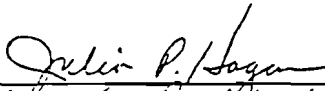
2 14.1. The stipulations to this Consent Judgment may be executed in counterparts and by  
3 means of facsimile, which taken together shall be deemed to constitute one document.

4 IT IS SO STIPULATED:

5 Dated: BILL LOCKYER  
6 Attorney General  
7 RICHARD M. FRANK  
8 Chief Assistant Attorney General  
9 CRAIG THOMPSON  
10 Acting Assistant Attorney General

11 By: \_\_\_\_\_  
12 Edward G. Weil  
13 Deputy Attorney General  
14 For Plaintiffs People of the State of California

15 Dated:

16 By:   
17 Title: *Vice President*  
18 On behalf of Defendant  
19 Vermont American Corp.

20  
21  
22 IT IS SO ORDERED, ADJUDGED, AND DECREED.

23 Dated:

24 \_\_\_\_\_  
25 JUDGE OF THE SUPERIOR COURT  
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1 14. EXECUTION IN COUNTERPARTS

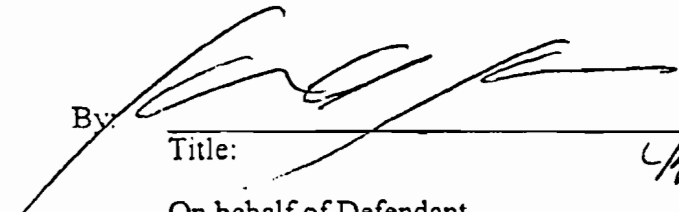

2 14.1. The stipulations to this Consent Judgment may be executed in counterparts and by  
3 means of facsimile, which taken together shall be deemed to constitute one document.

4 IT IS SO STIPULATED:

5 Dated: BILL LOCKYER  
6 Attorney General  
7 RICHARD M. FRANK  
8 Chief Assistant Attorney General  
9 CRAIG THOMPSON  
10 Acting Assistant Attorney General

11 By: \_\_\_\_\_  
12 Edward G. Weil  
13 Deputy Attorney General  
14 For Plaintiffs People of the State of California

15 Dated:

16 By:  \_\_\_\_\_  
17 Title:   
18 On behalf of Defendant  
19 Wal-Mart Stores, Inc.

20  
21 IT IS SO ORDERED, ADJUDGED, AND DECREED.

22 Dated: \_\_\_\_\_  
23 JUDGE OF THE SUPERIOR COURT  
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1 14. EXECUTION IN COUNTERPARTS

2 14.1. The stipulations to this Consent Judgment may be executed in counterparts and by  
3 means of facsimile, which taken together shall be deemed to constitute one document.

4 IT IS SO STIPULATED:

5 Dated: BILL LOCKYER  
6 Attorney General  
7 RICHARD M. FRANK  
8 Chief Assistant Attorney General  
9 CRAIG THOMPSON  
10 Acting Assistant Attorney General

11 By: \_\_\_\_\_  
12 Edward G. Weil  
13 Deputy Attorney General  
14 For Plaintiffs People of the State of California

15 Dated: *September 14, 2000*

16 By: *James W. Chamberlain*  
17 Title: *President*  
18 On behalf of Defendant  
19 Ryobi America Corporation

20  
21 IT IS SO ORDERED, ADJUDGED, AND DECREED.

22 Dated: \_\_\_\_\_  
23 JUDGE OF THE SUPERIOR COURT  
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EXHIBIT A

## Exhibit A: Covered Products

### Power Tools

Saws such as band, block, brick, circular, chain, chop, clearing, concrete, cut-off machines, floor, jig, masonry, miter, pavement, radial, reciprocating, refractory, scroll, stonecutting, table, tile, and wall-mounted saws.

Power shears and cutters such as rotary, tile and pipe cutters, and trimmers.

Power cutout tools.

Sanders, polishers, abrading machines and buffers.

Grinders such as pavement, right angle, die, straight and bench grinders and grooving equipment.

Drills and augers such as general purpose, diamond coring, driver, hammer, drill press, and dry wall drills.

Power sharpeners and files, including drill bit sharpeners.

Power screw drivers.

Power hammers such as breaker, chipper and rotary hammers.

Rotary tools and impact wrenches.

Lathes, planers, shapers, edgers, nibblers.

Routers such as general purpose, masonry, and plunge routers.

Joiners such as general purpose and plate joiners.

Power hobby tools, such as multipurpose tool kits used for cutting and etching.

Paint drying and removing tools, including heat guns.

Drywall cutters and trimmers.

### Accessories

Bits such as general purpose drill, bull point, forstner, masonry, diamond, core, cutter, router, auger, sander, grinding stone, mandrel, and screwdriver bits.

Saw blades such as circular, diamond, reciprocating, hole, band, jig, grit rod, grit back, masonry, abrasive, hack saw, and edge blades.

Carving tools, molding heads, dadoes, cutting blades.

Shaper and knife products, wires and lines for cutting, saw chains.

Chisels, chippers, breakers, bushing tools, files, and rasps.

Wire brushes.

Vacuums and other dust removal equipment.

Lathe equipment.

Wheels, discs, belts, rubs and pads such as sand, grinding, cutting, abrasive, diamond, mounted points, polishing, and buffing wheels, discs, belts and pads.

Sand paper such as sheet, disk, pre-cut and pre-form papers.

(Exhibit A continued)

### Building Materials

Clay and ceramic bricks, pavers, tiles, and other shapes; crushed brick, powdered brick, ground clay, and clay used for making bricks.

Concrete blocks, bricks, pavers, tiles, pipes, panels, and other concrete shapes.

Refractory bricks, blocks, and other shapes; refractory castables; and refractory products used to make other refractory products.

Gypsum wallboard, drywall, and other wallboards.

Mortars, grouts, portland cements, cement mixes, blended cements, magnesium oxide, magnesium hydroxide, and joint and other compounds used in connection with wallboard.

Chemically treated wood.

Sand, gravel, crushed stone, and aggregate.

### Hand Tools

Saws.

Drills.

Hammers.

Screwdrivers.

Scrapers.

Knives.

Chisels.

Pry bars.

Files, rasps, and planes.

Sanding blocks, sandpaper, and sharpening stones.

Brooms.

Steel wool.

Hand-held abrasive products such as pads, rubs, etc.

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**EXHIBIT B**

Exhibit B: Products for Which a Warning is Required

Power Tools

Saws such as band, block, brick, circular, chop, clearing, concrete, cut-off machines, floor, jig, masonry, miter, pavement, radial, reciprocating, refractory, scroll, stonecutting, table, tile, and wall-mounted saws.

Power shears and cutters such as rotary, tile and pipe cutters, and trimmers.

Power cutout tools.

Sanders, polishers, abrading machines and buffers.

Grinders such as pavement, right angle, die, straight and bench grinders and grooving equipment.

Drills and augers such as general purpose, diamond coring, driver, hammer, drill press, and dry wall drills.

Power sharpeners and files, including drill bit sharpeners.

Power screw drivers.

Power hammers such as breaker, chipper and rotary hammers.

Rotary tools and impact wrenches.

Lathes, planers, shapers, edgers, nibblers.

Routers such as general purpose, masonry, and plunge routers.

Joiners such as general purpose and plate joiners.

Paint drying and removing tools, including heat guns.

Drywall cutters and trimmers.

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EXHIBIT C

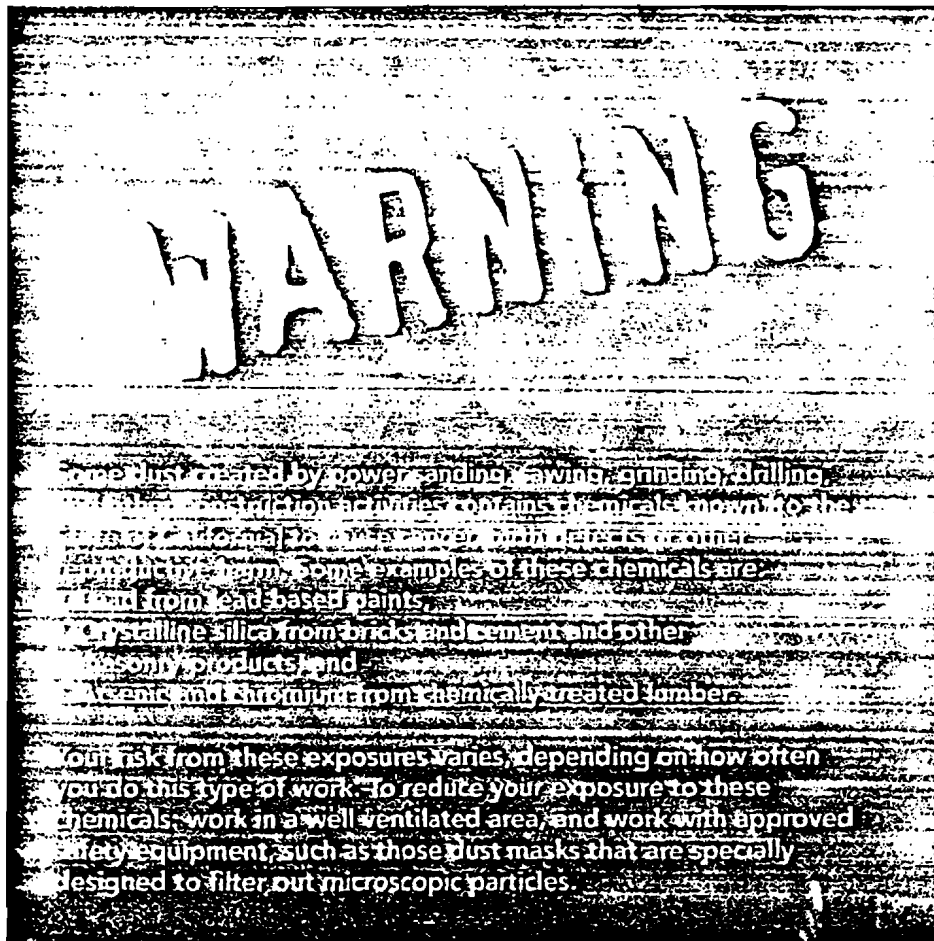
## WARNING

Some dust created by power sanding, sawing, grinding, drilling, and other construction activities contains chemicals known [to the State of California] to cause cancer, birth defects or other reproductive harm. Some examples of these chemicals are:

- lead from lead-based paints,
- crystalline silica from bricks and cement and other masonry products, and
- arsenic and chromium from chemically-treated lumber.

Your risk from these exposures varies, depending on how often you do this type of work. To reduce your exposure to these chemicals: work in a well ventilated area, and work with approved safety equipment, such as those dust masks that are specially designed to filter out microscopic particles.

[Note: Text in brackets is optional.]





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EXHIBIT D

Exhibit D: Warning Label.

WARNING: Some dust created by using power tools contains chemicals known to the State of California to cause cancer and birth defects or other reproductive harm.

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Exhibit E:

[SAME WARNING AS EXHIBIT C]

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Ex D

Note: On the originals of Exhibits C, D, and E, the word "WARNING" appears in bright yellow.

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**EXHIBIT E**

# WARNING

Some dust created by power sanding, sawing, grinding, drilling, and other construction activities contains

chemicals known to the State of California to cause cancer, birth defects or other reproductive harm. Some examples of these chemicals are:

- Lead from lead-based paints,
- Crystalline silica from bricks and cement and other masonry products, and
- Arsenic and chromium from chemically treated lumber.

Your risk from these exposures varies, depending on how often you do this type of work. To reduce your exposure to these chemicals: work in a well ventilated area, and work with approved safety equipment, such as those dust masks that are specially designed to filter out microscopic particles.

Ex E

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**EXHIBIT F**

Exhibit F:

**[COMMUNICATION FROM RETAIL DEFENDANTS TO STORE MANAGERS  
DIRECTING THEM TO POST WARNING SIGNS OR AFFIX WARNING LABELS.]**

(Company letterhead, proper address)

Dear Store Manager:

Enclosed are [signs for posting in your store] [labels to be affixed on power tool products] concerning exposures to chemicals known to the State of California to cause cancer, birth defects, or other reproductive harm, caused by use of power tools. Dust from materials such as concrete blocks, lead-based paint, and chemically-treated wood contains these chemicals in amounts that can be significant for people who use power tools frequently.

Warnings for these products are required by a Consent Judgment approved by the Superior Court and agreed to by the parties in *People of the State of California v. Ace Hardware, et al.* (San Francisco Superior Court No. 995893). Accordingly, it is very important that you post the signs as directed.

**FAILURE TO [POST THE SIGNS] [AFFIX THE LABELS] COULD RESULT IN  
LEGAL ACTION BY THE ATTORNEY GENERAL SEEKING COURT ORDERS AND  
CIVIL PENALTIES AGAINST OUR COMPANY. THESE PENALTIES COULD  
AMOUNT TO \$100 PER SIGN THAT YOU FAIL TO POST.**

You must [post the signs] [affix the labels] in one of the following ways:

[1. For stores that have central check-outs in the front of the store, one sign should be posted at every aisle devoted to power tools. For stores that have multiple check-outs located elsewhere in their stores, one sign can be posted either at each aisle where power tools are displayed or at the cash register or check-out counter nearest to where the power tools are displayed.]

[2. If over 50% of the shelf space (by estimate) in your store is devoted to sales of power tools, post at the check-out registers.]

[1. Affix one of the enclosed labels on the packaging of each power tool product listed on Exhibit B (attached), in a location on the packaging likely to be seen by consumers purchasing the product, without obscuring any other warnings that may appear on the packaging.]

[Do NOT post the signs on the front door of the store, or on walls that could be blocked or difficult for your customers to see.]

[Full-color signs] [Durable adhesive labels] are enclosed. If you need more, call or e-mail me at [telephone number and e-mail address]. [Do NOT make black-and-white copies of the sign.]

Because of the importance of this matter, please acknowledge receipt of this communication ASAP, by using the attached form. We must have 100% compliance on this matter. We are

subject to a \$100 fine for EACH sign that is missing, for EACH DAY the sign is missing.

Exhibit 1 [same list as Exhibit B]

Saws such as band, block, brick, circular, chop, clearing, concrete, cut-off machines, floor, jig, masonry, miter, pavement, radial, reciprocating, refractory, scroll, stonecutting, table, tile, and wall-mounted saws.

Power shears and cutters such as rotary, tile and pipe cutters, and trimmers.

Power cutout tools.

Sanders, polishers, abrading machines and buffers.

Grinders such as pavement, right angle, die, straight and bench grinders and grooving equipment.

Drills and augers such as general purpose, diamond coring, driver, hammer, drill press, and dry wall drills.

Power sharpeners and files, including drill bit sharpeners.

Power screw drivers.

Power hammers such as breaker, chipper and rotary hammers.

Rotary tools and impact wrenches.

Lathes, planers, shapers, edgers, nibblers.

Routers such as general purpose, masonry, and plunge routers.

Joiners such as general purpose and plate joiners.

Paint drying and removing tools, including heat guns.

Drywall cutters and trimmers.

Exhibit 2

## ACKNOWLEDGMENT

People v. Ace Hardware Consent Judgment:  
Warning Signs

I received the letter, and our store will post the signs as required.

Store Name:

Address:

Printed Or Typed Name Of Signatory:

Title:

Signature:

Date:



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**EXHIBIT G**

Exhibit G:

[LETTER FROM COOP DEFENDANTS AND MANUFACTURERS OF EXHIBIT B PRODUCTS TO INDEPENDENT RETAILERS NOTIFYING THEM OF THEIR OBLIGATION TO POST WARNING SIGNS.]

Dear Retailer:

The Attorney General of the State of California has filed suit against 95 defendants who manufacture or sell power tools, accessories, bricks, cement blocks, and other products, and has alleged that the sale of these products violates the California laws known as Proposition 65 and the ~~Unfair Competition Law~~ (*People of the State of California v. Ace Hardware*, San Francisco Superior Court No. 995893). Without admitting liability, the power-tool manufacturers and other defendants have negotiated a settlement in which independent retailers are protected from liability for selling these products, so long as they follow certain procedures specified by the Attorney General. This letter explains the nature of the suit, and identifies the procedures you need to follow. A copy of the settlement document will be provided at your request.

However, if you do not sell any of the products identified in Exhibit 1, you are not required to implement any of the procedures. Please check the box in the acknowledgment form attached as Exhibit 2, and sign and return the acknowledgment in the enclosed envelope.

Proposition 65 requires that a warning be given in many circumstances in which people are exposed to substances "known to the State of California" to cause cancer, birth defects, or other reproductive harm. The Attorney General's suit claims that these chemicals are generated when power tools are applied to substances such as (a) old lead-based paints, (b) bricks, cement blocks, and other products that contain crystalline silica, and (c) wood treated with arsenic and chromium.

The defendants who manufacture products identified in Exhibit 1 have agreed to place warnings in the manuals they supply with the products. However, it will take some time to get the thousands of different manuals revised and reprinted, and in the meantime the Attorney General has required an interim warning program consisting of warning signs posted in retail stores. The defendant retailers, which include many of the largest national retailers and cooperatives, have agreed to comply with this program.

If you implement the following procedures, you will be protected from liability under Proposition 65 and the Unfair Competition Law for selling these products. However, **if you sell the products listed on Exhibit 1 and do not implement the following procedures, YOU MAY BE SUED** by the Attorney General or a "private enforcer", and may be required to pay penalties and post warning signs.

You must post the enclosed sign in one of the following ways:

1. In the section of your store where power tools are sold, post one sign in the power-tool section or, if the section extends for more than one aisle, post one sign for each side of every aisle.

2. If you have a separate check-out for power tools, you may post the sign on the cash register or check-out counter for the power-tool section.
3. If you have no more than two cash registers for the store, you may post the sign at the check-out registers.
4. If over 50% of the shelf space (by estimate) in your store is devoted to sales of power tools, you may post at the check-out registers.

DO NOT post the sign on the front door of the store, or on walls that could be blocked or difficult for your customers to see.

A full-color sign is enclosed. If you need more, call [insert number] for more, or send an e-mail to [insert e-mail address]. DO NOT make black-and-white copies of the sign.

You may take the sign down [one year after the entry of the consent judgment] or when you ascertain that the Exhibit 1 products you are selling contain manuals that include the warning, whichever is sooner.

Please sign the enclosed acknowledgment attached as Exhibit 2 and return it in the enclosed envelope ASAP. If you do not return the acknowledgment, the Attorney General make take legal action against you.

[Closing, signature, name, title]

Exhibit 1 [same list as Exhibit B]

Saws such as band, block, brick, circular, chop, clearing, concrete, cut-off machines, floor, jig, masonry, miter, pavement, radial, reciprocating, refractory, scroll, stonecutting, table, tile, and wall-mounted saws.

Power shears and cutters such as rotary, tile and pipe cutters, and trimmers.

Power cutout tools.

Sanders, polishers, abrading machines and buffers.

Grinders such as pavement, right angle, die, straight and bench grinders and grooving equipment.

Drills and augers such as general purpose, diamond coring, driver, hammer, drill press, and dry wall drills.

Power sharpeners and files, including drill bit sharpeners.

Power screw drivers.

Power hammers such as breaker, chipper and rotary hammers.

Rotary tools and impact wrenches.

Lathes, planers, shapers, edgers, nibblers.

Routers such as general purpose, masonry, and plunge routers.

Joiners such as general purpose and plate joiners.

Paint drying and removing tools, including heat guns.

Drywall cutters and trimmers.

Exhibit 2

## ACKNOWLEDGMENT

### People v. Ace Hardware Consent Judgment: Warning Signs

- I received the letter, and our store will post the signs as required.
  
- Our store does not sell any of the products identified in the letter and Exhibit 1.

Company Or Store Name:

Address:

Printed Or Typed Name Of Signatory:

Title:

Signature:

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**EXHIBIT H**

**EXHIBIT H**  
**Address for Receiving Notice**

Minnesota Mining & Manufacturing Co.

Star Lightner, Esq.  
Paul, Hastings, Janofsky & Walker LLP  
345 California Street  
29<sup>th</sup> Floor  
San Francisco, CA 94104

Bosch:

Gregory Thiess, Esq.  
Legal Department  
Robert Bosch Corporation  
2800 S. 25<sup>th</sup> Avenue  
Broadview, Illinois 60153  
Tel. 708-865-5200  
Fax 708 78603673

with a copy to  
Robert I. Falk  
Morrison & Foerster LLP  
425 Market Street  
San Francisco, California 94105  
Tel. 415-268-6294  
Fax 415-268-7522

Ali Industries:

Terry L. Ali  
President  
Ali Industries, Inc.  
611 Yellow Springs-Fairfield Road  
P.O. Box 1677  
Fairborn, Ohio 45324  
Tel. (937) 878-3946

Coronado Stone Products:

Bob Ratkovic  
Coronado Stone Products  
11191 Calabah Avenue  
Fontana CA, 92337

Hokanson Building Block:

Frans Roodenberg  
Hokanson Building Block  
4751 Power Inn Road  
Sacramento, CA 95826

Pacific Coast Building Products:

Mark Ingram  
Pacific Coast Building Products  
3001 I Street  
Sacramento, CA 95816

CPC Terminals:

Art Conti  
CPC Terminals  
401 Canal Avenue  
Wilmington, CA 90744-6503

Forney Industries:

Ted Anderson, President  
Forney Industries, Inc.  
P.O. Box 563  
Fort Collins, Colorado 80522-0563

Sears:

Vice President/Merchandise Manager Hardware  
Sears Roebuck & co.  
3333 Beverly Road  
Hoffman Estates, Illinois 60179

Orchard Supply Hardware:

Vice President/General Manager  
Merchandising  
Orchard Supply Hardware Corporation  
6450 Via Del Oro  
San Jose, CA 95119

Partner Industrial Products:

Lennart Gustafsson  
Partner Industrial  
1151 Bryn Mawr Avenue  
Itasca, IL 60143

Husqvarna Forest & Garden Co., Division of WCI  
Outdoor Products, Inc.:

David R. Zerfoss  
President  
Husqvarna Forest & Garden Co.  
Division of WCI Outdoor Products, Inc.  
7349 Statesville Road  
Charlotte, NC 28269-3702

Bullard Abrasive, Inc.:

Richard A. Whyte  
President  
Bullard Abrasive, Inc.  
50 Hopkinton Road  
P.O. Box 1270  
Weatborough, MA 01581-1270

Echo Incorporated:

Joseph V. Rund  
Vice President Sales & Marketing  
Echo Incorporated  
400 Oakwood Road  
Lake Zurich, IL 60047



Stow Manufacturing Co.:

- (1) John M. Burtis, Esq.  
Director, Claims and Litigation  
United Dominion Industries, Inc.  
2300 One First Union Center  
301 South College Street  
Charlotte, North Carolina 2820-6039

And

- (2) Mr. George Barley  
Manager-Product Engineering  
BOMAG Light Equipment Division  
380 Broom Corporate Parkway  
Conklin, New York 13748-1512

Hitachi Koki U.S.A., Ltd.:

Benjie Hopkins  
General Manager  
Hitachi Koki U.S.A., Ltd.  
Corporate Headquarters  
3950 Steve Reynolds Boulevard  
Narcross, GA 30093  
Telephone: (770) 925-1774 ext. 237  
Fax: (770) 279-4293

Norton Company:

William J. McGettigan  
Senior Counsel  
Saint-Gobain Corporation  
750 E. Swedesford Road  
P.. Box 860  
Valley Forge, PA 19482

Makita U.S.A., Inc.:

Daniel Rhodes  
General Counsel  
Makita, Inc.  
14930 Northam Street  
La Mirada, CA 90638-5753

John Deere Consumer Products, Inc.:

John Deere Consumer Products, Inc.  
Attn: Legal Department  
P.O. Box 7047  
Charlotte, North Carolina 28241

Cushion Cut, Inc.:

Roger Allen  
General Manager  
Cushion Cut  
A Division of Boart Longyear Company  
2565 West 237<sup>th</sup> Street  
Torrance, CA 90505  
Telephone: (310) 325-5702  
Fax: (310) 539-2098

Global Material Technologies, Inc. (incorrectly sued herein as Rhodes American):

Norm Soep  
President  
Global Material Technologies, Inc.  
1540 East Dundee Road, Suite 210  
Palatine, IL 60074  
Telephone: (888) 468-9665

TruServ Corporation:

Robert D. Bridge, Esq.  
TruServ Law Department  
World Headquarters  
8600 W. Bryn Mawr Avenue  
Chicago, IL 60631-3505  
Telephone: (773) 695-5000  
Fax: (773) 695-5465

For Ace Hardware Corp.:

John J. Van Zeyl, Esq.  
Ace Hardware Corporation  
2200 Kensington Court  
Oak Brook, Illinois 60521

Copy to:

Lawrence S. Bazel, Esq.  
Washburn, Briscoe & McCarthy  
A Professional Corporation  
55 Francisco Street, Suite 600  
San Francisco, CA 94133

For American Tool Companies, Inc.

William L. Hoese, Esq.  
Sr. Vice President and General Counsel  
American Tool Companies, Inc.  
2800 W. Higgins Road, Suite 805  
Hoffman Estates, Illinois 60195

Copy to:

Lawrence S. Bazel, Esq.  
Washburn, Briscoe & McCarthy  
A Professional Corporation  
55 Francisco Street, Suite 600  
San Francisco, CA 94133

For Atkinson Brick Co.

Tobin Campbell  
Vice President  
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DECLARATION OF SERVICE BY U.S. MAIL

Case Name: PEOPLE v. ACE HARDWARE CORP., et al.

Case No. : San Francisco Superior Court No. 995893

I declare:

I am employed in the County of Alameda, California. I am 18 years of age or older and not a party to the within entitled cause; my business address is 1515 Clay Street, Suite 2000, Oakland, CA 94612.

On October 2, 2000, I served the attached **NOTICE OF ENTRY OF JUDGMENT (w/attached copy of endorsed-filed Consent Judgment)** by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States Mail at Oakland, California, addressed as follows:

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Attorney for: Michael DiPirro

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on October 2, 2000, at Oakland, California.

SANDRA L. McQUEEN

---

Typed Name

*Sandra L. McQueen*

---

Signature