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CHANLER & ASSOCIATES
1700 Montgomery Street, Suite 110
San Francisco, CA 94111
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Attorneys for Plaintiff
AS YOU SOW

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

AS YOU SOW, a non-profit corporation,)	Case No. 968856
)	
Plaintiff,)	STIPULATION FOR
v.)	<u>ENTRY OF JUDGMENT</u>
)	
THE DEXTER CORPORATION,)	
)	
Defendant.)	

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

Dated: April 20, 1995

by: Syda Kosofsky
Syda Kosofsky
Attorneys for Plaintiff
AS YOU SOW

Dated: April 19, 1995

by: Julianne Splain
Julianne Splain
THE DEXTER CORPORATION

Exhibit A

SETTLEMENT AGREEMENT

On April 19, 1995, in San Francisco, California, **As You Sow ("AYS")** and **The Dexter Corporation ("Dexter")** agreed to the following terms and conditions:

WHEREAS:

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

Dexter is a Connecticut company that currently manufactures and distributes specialty materials, including but not limited to aerospace coatings, automotive coatings, adhesives, packaging coatings, mold releases, acoustic materials, magnetic materials, nonwoven papers, and coatings, adhesives and processing chemicals (e.g., cleaners and strippers) for the electronics industry, including but not limited to, hardeners, primers, solvent thinners, solvent reducers, urethanes, activators, paints, epoxies, cleaners, aerosols, and curing agents, some of which contain certain Proposition 65 listed chemicals officially listed by the State of California as chemicals known to cause cancer and/or birth defects or other reproductive harm, pursuant to Health & Safety Code §25249.8;

One year after each chemical's listing date, and continuing to the present, a person is required to give a clear and reasonable warning before knowingly and intentionally "exposing" an individual in California to a product containing Proposition 65 listed chemicals pursuant to Health & Safety Code §§25249.6 and 25249.10(b);

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

On March 16, 1995, AYS served Dexter with an additional document entitled "60-Day Notice" which provided Dexter with notice that it was allegedly in violation of Health & Safety Code §25249.6 for failing to adequately warn purchasers that certain products it distributes for sale and/or use in California could expose users to Proposition 65-listed chemicals, including lead (and lead compounds), benzene, tetrachloroethylene (perchloroethylene), dichloromethane (methylene chloride), and chromium (hexavalent compounds);

On April 18, 1995, AYS filed a complaint entitled As You Sow v. The Dexter Corporation (No. 968856) in San Francisco Superior Court, naming Dexter as a defendant and alleging violations of Business & Professions Code §17200 and Health & Safety Code §25249.6 on behalf of individuals in California who allegedly are exposed to Proposition 65-listed chemicals in certain Dexter products;

AYS and Dexter desire to compromise, settle and conclude all disputes, controversies, claims and causes of action of any kind which the parties hereto have, may have or claim to have against each other arising from or relating to the presence of Proposition 65 listed chemicals in Dexter's products (as defined in ¶1.1 below), so that Dexter has no further liability relating to or arising out of those products' alleged failure to comply with Proposition 65, whether directly or by way of indemnification to retail, other sellers or other users of the Products; and

In settling this matter on the terms and conditions hereinafter provided, AYS acknowledges: a) that Dexter made a good faith effort to comply with 22 C.C.R. §1260(c)(1)(C) by providing conspicuous Proposition 65 warnings for products on the Dexter Material Safety Data Sheets provided to its customers in California pursuant to the federal Hazard Communication Standard; and b) that Dexter also provided Proposition 65 warnings for most of its products on the products' labels.

NOW, THEREFORE, THE PARTIES for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and for the covenants and promises hereinafter set forth, do hereby covenant and agree as follows:

1. Definitions.

1.1 "Products" - All products manufactured, distributed or sold by Dexter, including but not limited to aerospace coatings, automotive coatings, adhesives, packaging coatings, and coatings, adhesives and processing chemicals (e.g., cleaners and strippers) for the electronics industry, that contain Proposition 65 listed chemicals requiring warning.

1.2 "Material Safety Data Sheet" ("MSDS") - Written or printed material containing information about a Product provided by Dexter to its customers to comply with the state and federal Hazard Communication Programs, 22 C.C.R. §5194 and 29 C.F.R. Part 1910, respectively.

2. Product Labeling. Dexter shall in the ordinary course of updating its labels begin the process of reprinting Product labels to include a clear and conspicuous Proposition 65 warning on the label of each Product. The warning shall be printed on the label so that the warning is prominent and conspicuous as to render it likely to be read and understood by an ordinary individual. Beginning immediately but in no event later than 11 months after the date of this Agreement, Dexter shall not ship (or cause to be shipped) into the State of California any of the Products, unless the Product bears a Proposition 65 label warning as provided below. If necessary, Dexter may request and receive a one-time 30 day extension. Within 6 months of the date of this Agreement, Dexter will have relabeled 60% (by volume) of the Products. The label statement shall read as hereinafter provided.

- 2.1 For Products containing as an intended ingredient¹ a chemical listed by the State of California as known to cause birth defects or other reproductive harm:

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

- 2.2 For Products containing as an intended ingredient a chemical listed by the State of California as known to cause cancer:

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

- 2.3 For Products containing as intended ingredients any combination of chemicals listed by the State of California as known to cause cancer and known to cause birth defects and other reproductive harm:

"WARNING: This product contains chemicals known to the State of California to cause cancer and birth defects or other reproductive harm."

- 2.4 To the extent it is practical, this warning statement shall be prominent and conspicuous as to render it likely to be read and understood by an ordinary individual. The parties agree that the label attached hereto as Exhibit A is an example of a label that satisfies this requirement.

3. **Current Production.** Beginning no later than two months after the date of this Agreement, Dexter shall not ship (or cause to be shipped) into the state of California any of the Products unless the Product bears a label warning as provided in ¶2 or bears a sticker warning that reads as set forth in ¶¶2.1 - 2.4, above.

4. **Interim Warning Materials.** In order to ensure that individuals receive Proposition 65 warnings for Products containing as an intended ingredient a Proposition 65 chemical that were previously shipped for sale into California without any Proposition 65 label warnings, Dexter agrees that within 2 months of the date of this Agreement it shall provide interim warning materials to customers and distributors in California that have purchased the Products from Dexter since January 1, 1994. The interim warning materials shall include sufficient warning

¹It is understood between the parties that the term "intended ingredients" as it appears throughout this Settlement Agreement does not include unidentified and/or trace amounts of chemicals in products sold to Dexter by its suppliers.

stickers and a letter of instruction for placement of stickers. A copy of this letter is attached as Exhibit B.

5. **MSDS Revisions.** Beginning immediately, Dexter will initiate revisions to its current MSDS's for the Products so that the warning or warnings will be consistent in wording with the on-label warning language required by ¶2. Final printed MSDS's incorporating the revised warnings will begin to be distributed in the normal course of business but in any event no later than 6 months of the date of this Agreement.

6. **Settlement Amount.**

6.1 **Restitution.** Dexter agrees to contribute \$10,000.00 to AYS within thirty (30) days of notification of entry of the Judgment On Stipulation For Entry of Judgment by the San Francisco Superior Court, as restitution, pursuant to Business & Professions Code §17203. This sum shall be paid to BayKeeper which is located in San Francisco and investigates discharge violations in the San Francisco Bay.

6.2 **Investigation Costs.** In an effort to defray AYS' investigation fees and costs, expert fees, reasonable attorneys' fees, and any other costs incurred as a result of investigating, bringing this matter to Dexter's attention, litigating and negotiating a settlement in the public interest, Dexter agrees to pay AYS \$25,000.00 within thirty (30) days of notification of entry of the Judgment On Stipulation For Entry of Judgment.

6.3 **Penalties.**

(a) Pursuant to Health & Safety Code §25249.7(b), Dexter shall pay a civil penalty of \$7,500.00, payable within thirty (30) days of notification of entry of the Judgment On Stipulation For Entry of Judgment.

(b) Pursuant to Health & Safety Code §25249.7(b), Dexter shall pay a civil penalty of \$75,000.00, payable on or before July 30, 1997, but this penalty will be waived upon written certification to AYS that Dexter has expended \$75,000.00 during the next two years on research and development and other efforts to reformulate Products to reduce or eliminate Proposition 65 chemicals and volatile organic compounds as ingredients. Certification must be received by AYS no later than June 30, 1997.

(c) Penalty monies shall be apportioned by AYS in accordance with Health & Safety Code §25192.

7. **Representative MSDS's and Labels.** Dexter agrees to provide AYS with representative Material Safety Data Sheets or product labels from five other companies whose products contain Proposition 65 chemicals. Such information shall be provided to AYS within thirty (30) days of the execution of this Agreement.

8. **AYS Release.** AYS, in consideration of the Dexter commitments and payments set forth herein, on its own behalf, its attorneys, employees, successors, assigns, predecessors, subrogees, principals, agents, consultants and insurers, does hereby release and forever discharge Dexter and all entities in the chain of commerce from manufacturing to end user, including but not limited to, customers, wholesalers, distributors, retailers, jobbers and manufacturer's representatives, distributing or using the Products, as well as each of Dexter's successors, assigns, predecessors, stockholders, officers, directors, subrogees, subsidiaries, trustees, corporate affiliates, board members, agents, attorneys, employees and consultants of and from any and all claims, demands, actions, causes of action, duties, debts, sums of money, suits, reckonings, contracts, controversies, agreements, promises, damages, responsibilities, obligations, liabilities and accounts of whatsoever kind, nature or description, direct or indirect, at law or in equity, in contract or tort or otherwise arising out of or relating, directly or indirectly, to the Products' compliance with Proposition 65, or arising from or relating to any facts or legal theories involving the Products' compliance with Proposition 65; it being the specific intent and purpose of the parties hereto that this Settlement Agreement and release shall extend to any and all persons, corporations, associations, or other entities and to any and all of the matters aforesaid, whether now known or unknown, which exist or might be claimed to exist at, or prior to the date hereof; and AYS, its attorneys, employees, agents, consultants and insurers, and each of them, expressly waive, release and relinquish any and all claims or rights to assert that any such matter, cause or thing of any kind or nature whatsoever has been, through oversight or error or intentionally or unintentionally, omitted with respect to the Products' compliance with Proposition 65.

9. **Dexter Release.** Dexter, in consideration of the terms set forth herein, on its own behalf, its attorneys, employees, successors, assigns, predecessors, subrogees, principals, agents, consultants and insurers, does hereby release and forever discharge AYS as well as each of their successors, assigns, predecessors, stockholders, officers, directors, subrogees, subsidiaries, trustees, corporate parents, affiliates, board members, agents, attorneys, employees and consultants of and from any and all claims, demands, actions, causes of action, duties, debts, sums of money, suits, reckonings, contracts, controversies, agreements, promises, damages, responsibilities, obligations, liabilities and accounts of whatsoever kind, nature or description, direct or indirect, at law or in equity, in contract or tort or otherwise arising out of or relating, directly or indirectly, to the Products' compliance with Proposition 65, or arising from or relating to any facts or legal theories involving the Products' compliance with Proposition 65; it being the

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THE DEXTER CORP.

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specific intent and purpose of the parties hereto that this settlement agreement and release shall extend to any and all persons, all of the matters aforesaid, whether now known or unknown, which exist or might be claimed to exist at, prior to, or after the date hereof; and Dexter, its attorneys, employees, successors, assigns, predecessors, subrogees, principals, agents, consultants and insurers, and each of them, expressly waive, release and relinquish any and all claims or rights to assert that any such matter, cause or thing of any kind or nature whatsoever has been, through oversight or error or intentionally or unintentionally omitted with respect to the Products' compliance with Proposition 65

- 10. **Stipulated Judgment.** AYS agrees to prepare, execute and file within ten (10) days of the execution of this Agreement a Stipulation For Entry Of Judgment as well as a Judgment On Stipulation For Entry Of Judgment for the pending litigation entitled As You Sow v. The Dexter Corporation (No. 988858) with the Superior Court of San Francisco County.
- 11. **Unenforceability.** In the event that any of the provisions of this Agreement are held by a court to be unenforceable, the validity of the enforceable provisions shall not be adversely affected.
- 12. **Attorneys' Fees.** In the event that an action is brought to enforce the terms of this Agreement, the prevailing party shall be entitled to recover costs and reasonable attorneys' fees incurred to the extent the court finds such fees and costs reasonable.
- 13. **Governing Law.** The terms of this Agreement shall be governed by the laws of the State of California.
- 14. **No Admission.** Nothing in this Agreement shall be construed as an admission by Dexter of any fact, finding, issue of law, or violation of law, nor shall compliance with this Agreement constitute or be construed as an admission by Dexter of any fact, finding, conclusion, issue of law, or violation of law. However, this paragraph shall not diminish or otherwise affect the obligation, responsibilities, and duties of either party under this Agreement.
- 15. **Authority to Execute.** The undersigned are authorized to execute this Agreement on behalf of their respective parties and have read, understood and agree to all of the terms and conditions of this Agreement.

AGREED TO:

AGREED TO:

AS YOU SOW

THE DEXTER CORPORATION

By: [Signature]

By: [Signature]

Dated: 4/20/95

Dated: April 20 1995

1375 X C 110



WARNING: THIS PRODUCT CONTAINS A CHEMICAL KNOWN TO THE STATE OF CALIFORNIA TO CAUSE BIRTH DEFECTS OR OTHER REPRODUCTIVE HARM.

TARGET ORGANS: Kidneys, respiratory tract, liver, reproductive system, central nervous system.

WARNING: Handle & use with care. Use only with adequate ventilation. For industrial use only. READ MSDS BEFORE USING THIS PRODUCT. Any materials spilled on the MSDS with an animal have been found to be fatal to the animal. NTP, NCI, or OSHA.

First Aid:

Eye: Irritation. Irritation of the respiratory tract or acute respiratory system depression discontinued by removal. Avoidance. Slightly red, irritation.

Skin or Eye Contact: Primary irritation.

Respiratory and Eye Irritation: Remove contaminated clothing and shoes.

Aspiration: Remove contaminated clothing and shoes. If inhaled, a physician should be consulted. If inhaled, a physician should be consulted.

Inhalation: Remove contaminated clothing and shoes. If inhaled, a physician should be consulted. If inhaled, a physician should be consulted.

Swallowing: Use National Fire Protection Association (NFPA) Class II extinguisher (carbon dioxide, dry chemical or foam) designed to extinguish the fire. Do not breathe liquid fumes. Use a fire extinguisher to extinguish the fire. Do not breathe liquid fumes. Use a fire extinguisher to extinguish the fire.

Fire: Do not breathe liquid fumes. Use a fire extinguisher to extinguish the fire. Do not breathe liquid fumes. Use a fire extinguisher to extinguish the fire.

Explosion: Do not breathe liquid fumes. Use a fire extinguisher to extinguish the fire. Do not breathe liquid fumes. Use a fire extinguisher to extinguish the fire.

Reactivity: Do not breathe liquid fumes. Use a fire extinguisher to extinguish the fire. Do not breathe liquid fumes. Use a fire extinguisher to extinguish the fire.

Stability: Do not breathe liquid fumes. Use a fire extinguisher to extinguish the fire. Do not breathe liquid fumes. Use a fire extinguisher to extinguish the fire.

Toxicology: Do not breathe liquid fumes. Use a fire extinguisher to extinguish the fire. Do not breathe liquid fumes. Use a fire extinguisher to extinguish the fire.

Ecotoxicology: Do not breathe liquid fumes. Use a fire extinguisher to extinguish the fire. Do not breathe liquid fumes. Use a fire extinguisher to extinguish the fire.

Environmental Fate: Do not breathe liquid fumes. Use a fire extinguisher to extinguish the fire. Do not breathe liquid fumes. Use a fire extinguisher to extinguish the fire.

Environmental Effects: Do not breathe liquid fumes. Use a fire extinguisher to extinguish the fire. Do not breathe liquid fumes. Use a fire extinguisher to extinguish the fire.

Physical Properties: Do not breathe liquid fumes. Use a fire extinguisher to extinguish the fire. Do not breathe liquid fumes. Use a fire extinguisher to extinguish the fire.

Chemical Properties: Do not breathe liquid fumes. Use a fire extinguisher to extinguish the fire. Do not breathe liquid fumes. Use a fire extinguisher to extinguish the fire.

Regulatory Information: Do not breathe liquid fumes. Use a fire extinguisher to extinguish the fire. Do not breathe liquid fumes. Use a fire extinguisher to extinguish the fire.

Other Information: Do not breathe liquid fumes. Use a fire extinguisher to extinguish the fire. Do not breathe liquid fumes. Use a fire extinguisher to extinguish the fire.

Special Handling: Do not breathe liquid fumes. Use a fire extinguisher to extinguish the fire. Do not breathe liquid fumes. Use a fire extinguisher to extinguish the fire.

Special Storage: Do not breathe liquid fumes. Use a fire extinguisher to extinguish the fire. Do not breathe liquid fumes. Use a fire extinguisher to extinguish the fire.

Special Disposal: Do not breathe liquid fumes. Use a fire extinguisher to extinguish the fire. Do not breathe liquid fumes. Use a fire extinguisher to extinguish the fire.

Special Transport: Do not breathe liquid fumes. Use a fire extinguisher to extinguish the fire. Do not breathe liquid fumes. Use a fire extinguisher to extinguish the fire.

Special Use: Do not breathe liquid fumes. Use a fire extinguisher to extinguish the fire. Do not breathe liquid fumes. Use a fire extinguisher to extinguish the fire.

Special Maintenance: Do not breathe liquid fumes. Use a fire extinguisher to extinguish the fire. Do not breathe liquid fumes. Use a fire extinguisher to extinguish the fire.

Special Repairs: Do not breathe liquid fumes. Use a fire extinguisher to extinguish the fire. Do not breathe liquid fumes. Use a fire extinguisher to extinguish the fire.

Special Safety: Do not breathe liquid fumes. Use a fire extinguisher to extinguish the fire. Do not breathe liquid fumes. Use a fire extinguisher to extinguish the fire.

Special Training: Do not breathe liquid fumes. Use a fire extinguisher to extinguish the fire. Do not breathe liquid fumes. Use a fire extinguisher to extinguish the fire.

Special Documentation: Do not breathe liquid fumes. Use a fire extinguisher to extinguish the fire. Do not breathe liquid fumes. Use a fire extinguisher to extinguish the fire.

Special Compliance: Do not breathe liquid fumes. Use a fire extinguisher to extinguish the fire. Do not breathe liquid fumes. Use a fire extinguisher to extinguish the fire.

Special Audits: Do not breathe liquid fumes. Use a fire extinguisher to extinguish the fire. Do not breathe liquid fumes. Use a fire extinguisher to extinguish the fire.

Special Reviews: Do not breathe liquid fumes. Use a fire extinguisher to extinguish the fire. Do not breathe liquid fumes. Use a fire extinguisher to extinguish the fire.

Special Updates: Do not breathe liquid fumes. Use a fire extinguisher to extinguish the fire. Do not breathe liquid fumes. Use a fire extinguisher to extinguish the fire.

AEROSPACE • GROUND TRANSPORTATION

FOR INDUSTRIAL USE ONLY
KEEP CONTAINER CLOSED WHEN NOT IN USE.
IN CASE OF SPILL CALL CHEMTREC - DAY OR NIGHT 1-800-424-9300



**AEROSPACE
MATERIALS
DIVISION**

THE DEXTER CORPORATION

Using the Material Form and Color
Indicates the Material Form and Color
HEALTH :
FLAMMABILITY :
REACTIVITY :
PERSONAL PROTECTION: See the
Material Form and Color for proper personal protection
Note: If not indicated by Material Form and Color, see
Material Form and Color for proper personal protection.

ONE GALLON/3.785 LITERS

East Water Street
Waukegan, IL 60085 USA

EXHIBIT B

IMPORTANT LEGAL NOTICE

May __, 1995

Mr. or Ms. _____
____ Corporation
Address

Re: California Proposition 65 Product Label Requirements

Dear _____:

This letter is to request your help in applying some new warning labels to the Dexter products listed on Attachment A. Please forward this letter to the appropriate individual within your organization who can implement this type of program.

We have begun the process of re-labeling the products in our inventory to comply with the warning requirements of the Safe Drinking Water and Toxic Enforcement Act of 1986, commonly referred to as "Proposition 65". Pursuant to Proposition 65, individuals must be given clear and reasonable warning of the reproductive toxicity and carcinogenicity of the chemicals contained in products. We need your help to update the products in your inventory which may have been shipped before our re-labeling program was fully enacted. Your participation will better enable purchasers or users of these products to receive the appropriate Proposition 65 warnings and may prevent potential legal actions against you by various environmental groups or the California Attorney General.

We request that you affix the enclosed warning stickers to the products listed on Attachment A in the manner described below. This will provide individuals a clear and reasonable warning of those chemicals listed by the State of California as causing cancer or birth defects (or other reproductive harm).

Labeling Procedure:

1. A warning sticker needs to be affixed to the container, lid or label of each packaged product listed on Attachment A which does not already have a Proposition 65 warning on its label. The sticker must be affixed so that it is conspicuous and likely to be read and understood by an ordinary individual under customary conditions of use.

2. The enclosed stickers contain three different types of warnings. Attachment A should be used as your reference to verify that you have chosen the proper warning sticker as needed for each of the products.

We thank you, in advance, for your help in bringing the materials in your inventory in-line with current warning label requirements. We anticipate that this need only relates to materials in your current inventory and that all materials being shipped in the future will be pre-labeled by us. Feel free to give us a call for more information or if you have questions.

Sincerely,