

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is entered into by and between Michael DiPirro, a California citizen, and Luck "E" Strike USA, a Missouri corporation ("Luck 'E' Strike"), as of June 26, 2000 (the "Effective Date"). The parties agree to the following terms and conditions:

WHEREAS:

A. Michael DiPirro is an individual residing in San Francisco, California, who seeks to promote awareness of exposures to toxic chemicals and improve human health by reducing or eliminating hazardous substances contained in consumer and industrial products;

B. Luck "E" Strike is a company that currently manufactures and/or distributes certain fishing tackle products as set forth in Exhibit A that contain lead (or lead compounds), a substance known to the State of California to cause cancer and birth defects (or other reproductive harm);

C. A list of the products which contain lead (or lead compounds) (the "Listed Chemical") and which are covered by this Agreement is provided in Exhibit A (the "Products"). The Products have been manufactured, distributed and sold by Luck "E" Strike for use in California since at least September 27, 1995; and

D. On September 27, 1999, Michael DiPirro first served Luck "E" Strike and other public enforcement agencies with a document entitled "60-Day Notice of Violation" which provided Luck "E" Strike and such public enforcers with notice that Luck "E" Strike was allegedly in violation of Health & Safety Code §25249.6 for failing to warn purchasers that certain products it sells in California expose users to Proposition 65-listed chemicals; and

E. On December 13, 1999, Michael DiPirro filed a complaint entitled Michael DiPirro v. Luck "E" Strike USA, et al. in the San Francisco County Superior Court, naming Luck "E" Strike 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 have been exposed to chemicals listed pursuant to Proposition 65 contained in certain Luck "E" Strike products.

F. Nothing in this Agreement shall be construed as an admission by Luck "E" Strike 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 Luck "E" Strike of any fact, finding, conclusion, issue of law, or violation of law. However, this paragraph shall not diminish or otherwise affect the obligations, responsibilities, and duties of Luck "E" Strike under this Agreement.

NOW THEREFORE, MICHAEL DIPIRRO AND LUCK "E" STRIKE AGREE AS FOLLOWS:

1. Product Warnings. Luck "E" Strike shall begin to initiate revisions to its health hazard warnings for its Products to provide the language set forth in the section 1.1 below. Beginning on December 1, 2000, Luck "E" Strike agrees that it will not knowingly ship (or cause to be shipped) any Products containing the Listed Chemical for sale in the State of California unless such Products comply with section 1.1 below:

1.1 For all Products containing lead, such Products shall bear the following warning statement:

"WARNING: This product contains lead, a chemical known to the State of California to cause cancer and birth defects (or other reproductive harm)";

or

"WARNING: This product contains a chemical known to the State of California to cause cancer and birth defects (or other reproductive harm)";

The warning statement shall be prominently placed upon the Product's label with such conspicuousness, as compared with other words, statements, designs or devices on the label as to render it likely to be read and understood by an ordinary individual under customary conditions of purchase or use.

2. Payment Pursuant To Health & Safety Code §25249.7(b). Pursuant to Health & Safety Code §25249.7(b), Luck "E" Strike shall pay a civil penalty of \$1,200. The penalty payments are to be made payable to "Chanler Law Group In Trust For Michael DiPirro". Penalty monies shall be apportioned by DiPirro in accordance with Health & Safety Code §25192, with 75% of these funds remitted to the State of California's Department of Toxic Substances Control.

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

Luck "E" Strike shall reimburse DiPirro for his fees and costs, incurred as a result of investigating, bringing this matter to Luck "E" Strike's attention, litigating and negotiating a settlement in the public interest. Luck "E" Strike shall pay the total sum of \$6,800 for investigation fees, attorneys' fees and litigation costs. Luck "E" Strike agrees to pay \$6,800 within five (5) days of the Effective Date of the Agreement. Payment should be made payable to the "Chanler Law Group".

4. Michael DiPirro's Release Of Luck "E" Strike. Michael DiPirro, by this Agreement, on behalf of himself, his agents, representatives, attorneys, assigns and the citizens of the State of California, waives all rights to institute or participate in, directly or indirectly, any form of legal action, and releases all claims, liabilities, obligations, losses, costs, expenses, fines and damages, against Luck "E" Strike and its distributors, retailers, customers, directors, officers, employees, affiliates, successors and assigns, whether under Proposition 65 or the Business & Profession Code §17200 et seq. based on Luck "E" Strike's failure to warn about exposure to the Listed Chemical contained in any of the Products.

5. Luck "E" Strike's Release Of Michael DiPirro. Luck "E" Strike, by this Agreement, waives all rights to institute any form of legal action against Michael DiPirro and his attorneys or representatives, for all actions or statements made by Michael DiPirro, and his attorneys or representatives, in the course of seeking enforcement of Proposition 65 or Business & Profession Code §17200 against Luck "E" Strike.

6. Waiver of the Provisions of the California Civil Code, Section 1542. DiPirro, on behalf of himself, his agents, representatives, attorneys, successors and assigns, and *not* in his representative capacity on behalf of citizens of the State of California, and Luck "E" Strike, hereby waive the provision of the California Civil Code, Section 1542, which provides as follows: "A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which is known by him, must have materially affected his settlement with the debtor."

7. Stipulated Judgment. Concurrently with the execution of this Agreement, Michael DiPirro and Luck "E" Strike shall execute and file a stipulated judgment to be approved pursuant to C.C.P. §664.6 by the San Francisco County Superior Court in accordance with the terms of this Agreement. If, for any reason, the stipulated judgment is not approved by the Court, this Agreement shall be deemed null and void.

8. Luck "E" Strike Sales Data. Luck "E" Strike understands that the sales data provided to counsel for DiPirro by Luck "E" Strike was a material factor upon which DiPirro has relied to determine the amount of payments made pursuant to Health & Safety Code §25249.7(b) in this Agreement. To the best of Luck "E" Strike's knowledge, the sales data provided is true and accurate. In the event that DiPirro discovers facts which demonstrate to a reasonable degree of certainty that the sales data is materially inaccurate, the parties shall meet in a good faith attempt to resolve the matter within ten (10) days of Luck

"E" Strike's receipt of notice from DiPirro of his intent to challenge the accuracy of the sales data. If this good faith attempt fails to resolve DiPirro's concerns, DiPirro shall have the right to rescind the Agreement and re-institute an enforcement action against Luck "E" Strike, provided that all sums paid by Luck "E" Strike pursuant to paragraphs 2 and 3 are returned to Luck "E" Strike within ten (10) days from the date on which DiPirro notifies Luck "E" Strike of his intent to rescind this Agreement. In such case, all applicable statutes of limitation shall be deemed tolled for the period between the date DiPirro filed the instant action and the date DiPirro notifies Luck "E" Strike that he is rescinding this Agreement pursuant to this Paragraph.

9. Product Characterization. Luck "E" Strike acknowledges that each of the Products listed in Exhibit A contains lead and Plaintiff alleges that the customary use or application of the Products is likely to expose users to lead, a substance known to the State of California to cause cancer and birth defects (or other reproductive harm). In the event that Luck "E" Strike obtains analytical, risk assessment or other data ("Exposure Data") that shows an exposure to any or all Products poses "no significant risk" or will have "no observable effect," as each such standard is applicable and as each is defined under Health & Safety Code §25249.10(c) and Luck "E" Strike seeks to eliminate the warnings, then Luck "E" Strike shall provide DiPirro with ninety (90) days prior written notice of its intent to limit or eliminate the warning provisions under this Agreement based on the Exposure Data and shall provide DiPirro with all such supporting Exposure Data. Within ninety (90) days of receipt of Luck "E" Strike Exposure Data, DiPirro shall provide Luck "E" Strike 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 Luck "E" Strike written notice of his intent to challenge the Exposure Data within ninety (90) days of receipt of Luck "E" Strike's notice and the Exposure Data, DiPirro shall waive all rights to challenge the Exposure Data, and Luck "E" Strike shall be entitled to limit or eliminate the warning provisions required under this Agreement with respect to those Product(s) to which the Exposure Data applies. If DiPirro timely notifies Luck "E" Strike of his intent to challenge the Exposure Data, DiPirro and Luck "E" Strike (a) may stop its efforts to eliminate the warnings upon notice to DiPirro with no further liability or obligations or (b) shall negotiate in good faith for a period not to exceed thirty (30) days following receipt of Luck "E" Strike's notice to attempt to reach a settlement of this issue. If a settlement is not reached, DiPirro and Luck "E" Strike agree to submit such challenge to the superior court for determination, pursuant to the court's continuing jurisdiction of this matter under C.C.P. §664.6 and this Agreement. The prevailing party shall be entitled to reasonable attorneys' fees and costs associated with bringing a motion brought under this paragraph to the court for determination. Notwithstanding the foregoing, in the event that Luck "E" Strike is no longer required to provide the warnings provided for herein under applicable law, regulation or court order, then Luck "E" Strike may discontinue the warnings with no further liability or obligations to the extent that new law, regulation or court order provides.

10. Severability. In the event that any of the provisions of this Agreement are held by a court to be unenforceable, the validity of the enforceable provisions shall not be

adversely affected.

11. Attorney's Fees. In the event that a dispute arises with respect to any provision(s) of this Agreement, the prevailing party shall be entitled to recover costs and reasonable attorneys' fees.

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

13. Notices. All correspondence to Michael DiPirro shall be mailed to:

Hudson Bair, Esq.
Kapsack & Bair, LLP
1440 Broadway, Suite 610
Oakland, CA 94612
(510) 645-0027

or

Clifford A. Chanler, Esq.
Chanler Law Group
Magnolia Lane (off Huckleberry Hill)
New Canaan, CT 06840-3801
(203) 966-9911

All correspondence to Luck "E" Strike shall be mailed to:

J. Michael Riehn, Esq.
801 West 8th Street
Cassville, MO 65625
(417) 847-1339

14. Compliance With Reporting Requirements. The parties agree to comply with the reporting form requirements referenced in Health & Safety Code §25249.7(f). As of the Effective Date, the California Attorney General's reporting forms are not available. Luck "E" Strike represents, however, that its counsel will send a copy of this Agreement to the California Attorney General's Office prior to or concurrently with the presentation of the Stipulated Judgment to the San Francisco County Superior Court.

15. Counterparts and Facsimile. This Agreement may be executed in counterparts and facsimile, each of which shall be deemed an original, and all of which, when taken together, shall constitute one and the same document.

16. Authorization. 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:

DATE: 6/28/00


Michael DiPirro
PLAINTIFF

AGREED TO:

DATE: _____

Luck "E" Strike USA
DEFENDANT

16. Authorization. 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:

DATE: _____

Michael DiPirro
PLAINTIFF

AGREED TO:

DATE: 6/28/2020

John W. Hendrichs
Luck "E" Strike USA
DEFENDANT

Exhibit A

EXHIBIT A

1. Fishing tackle containing lead