

The **Ultimate** Companies, inc.

Ultimate Wireforms, inc.

Ultimate NiTi technologies, inc.

Ultimate DoBrasil, Ltda.



January 10, 2011

Kenneth Highland
Highland Metals
419 Perrymont Avenue
San Jose, CA 95125

California Proposition 65 Settlement – Annual Letter

Dear Kenneth,

Our best wishes for a happy and healthy New Year!

As you may know, Ultimate Wireforms, Inc. was one of the defendants in Proposition 65 litigation in California in 2001. That law is a voter initiative passed to address citizen concerns about exposure to substances that may cause cancer or reproductive toxicity. Under the terms of our settlement with Consumer Cause, we are required to send this letter annually.

Under the law, the State of California has the right to bring an action if it feels enforcement in a certain industry is necessary. Even if the State does not bring an enforcement action, the law allows for private citizens to bring litigation which, if successful, would subject manufacturers to harsh financial penalties, labeling requirements, and fees and costs to the private party bringing suit. The law has triggered the proliferation of labeling in order to protect manufacturers, distributors and product sellers from these harsh financial penalties.

A private organization named "Consumer Cause, Inc." instituted a substantial number of enforcement actions against manufacturers in a wide variety of fields, claiming that their products were potentially harmful. They identified stainless steel and nickel titanium orthodontic products, such as those being made by Ultimate Wireforms, Inc., and all other major orthodontic manufacturers, as potential carcinogens since they contain nickel, a chemical in the list of "Chemicals Known to the State of California to Cause Cancer or Reproductive Toxicity".

The State of California declined to pursue this case, and “Consumer Cause, Inc.” could point to no information or research that concluded stainless steel or nickel-titanium products caused cancer or reproductive toxicity. Nevertheless, “Consumer Cause, Inc.” brought suit in State Court against Ultimate Wireforms, Inc. on January 9, 2001.

We worked with three distinguished law firms to evaluate our situation. The three firms (Reiner, Reiner & Bendett, P.C. in Connecticut, Collier, Shannon & Scott LLC in Washington, D.C. and Haight, Brown and Bonesteel, L.L.P. in California) worked together to plan a defense. After many discussions and careful deliberation, it was apparent that even though our extensive worldwide research showed that nickel, found in many orthodontic products, had never been attributed to cancer or birth defects in humans anywhere in the world, the expense to prove this in court would be astronomical. We put the emotions aside and focused on a settlement that would not only protect Ultimate Wireforms, Inc., but all of our existing and potential customers as well.

Ultimate Wireforms, Inc. (UWI) negotiated a cash settlement that includes protection from Proposition 65 litigation for your company for nickel-containing products currently purchased from UWI as well as future orthodontic products purchased from UWI. In order for you to be protected from future litigation, you must strictly adhere to the requirements which are listed in paragraph 2 “Injunctive Relief” of the settlement (enclosed).

Enclosed Exhibits:

- Exhibit A is the current labeling requirement.
 - All products containing nickel purchased from Ultimate Wireforms, Inc. must carry the warning.
 - Prior to 2009, we had also included products containing chromium as requiring a warning. In 2008, we determined that the chromium in our orthodontic products is not the type of chromium that is on the current Prop 65 Chemical List, namely hexavalent compounds. Therefore, our products containing chromium do not require the Prop 65 warning related to chromium.
- Exhibit B is the extended list of all of the covered products manufactured by Ultimate Wireforms, Inc.
- Exhibit C is a “DRAFT” letter that must be sent to all of your customers in California. This “DRAFT” letter has been updated to exclude chromium, based on the same information as described above for Exhibit A.

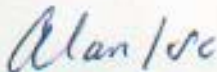
Please note that this settlement includes all orthodontic products that contain nickel. This means that our settlement includes any and all orthodontic products containing nickel that you purchase from us. We believe that no other orthodontic company has reached a settlement in connection with Proposition 65 litigation that is as comprehensive. Please keep this in mind should other orthodontic companies represent to you that labeling is not

required; it may only be true for certain products and other products may not be covered. In exchange for certain labeling requirements, we believe we have terminated any viable Proposition 65 litigation for all Ultimate Wireforms' orthodontic products.

In general, to be included in this settlement you must prove that you are distributing products containing nickel purchased solely from UWI and are also providing warnings about your products in accordance with Proposition 65 requirements (please see enclosed Exhibit A). If you meet these criteria you will be protected from paying any penalty related to the distribution of UWI orthodontic products within the State of California. Any expenses related to proving that your products have been purchased from UWI, along with proper labeling, is your responsibility. Furthermore, we cannot guarantee that you will not be sued – but any such suit should be dismissed against you because of our settlement. We are pleased to include your company in our settlement.

I want to personally thank you for giving us the opportunity to serve you; it is truly our pleasure.

With Best Regards,



Alan J. Bednaz
President

p.s. To fully understand California Prop 65 requirements, we suggest that you research the State of California Prop 65 website, <http://www.oehha.ca.gov/prop65.html>, for complete, up-to-date information regarding chemicals and their labeling requirements.

EXHIBIT A

Updated as of January 2009

[WARNING] ORTHODONTIC PRODUCTS

Nickel Titanium Archwires

All orthodontic products containing nickel must be labeled with the following warning:

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

Nickel Titanium Cervical Collars

Nickel Titanium Springs

Nickel Titanium CTAB Archwires

Nickel Titanium Dry Rays

Nickel Titanium Hooks

Nickel Titanium Mouthpieces

Archwire Retainers (Dry Rays)

Nickel Titanium Spikes/Guides

Nickel Titanium Single Post Guides

Nickel Titanium Vertical Rods

Removable Steel Archwires

Removable Steel Bands

Stays

Removable Steel Cervical Collars

Removable Steel Springs

Removable Steel CTAB Archwires

Removable Steel Dry Rays

Removable Steel Hooks

Removable Steel Mouthpieces

Removable Steel Spikes/Guides

Removable Steel Single Post Guides

Removable Steel Vertical Rods

EXHIBIT B

Original listing from Settlement

[LIST OF COVERED PRODUCTS]

Nickel Titanium Arches
Nickel Titanium Straights
Nickel Titanium Spools
Nickel Titanium Torqued Arches
Nickel Titanium Utility Arches
Nickel Titanium Springs
Nickel Titanium CTA® Arches
Nickel Titanium Bra Stays
Nickel Titanium Hoops
Nickel Titanium Hookkeepers
Nickel Titanium Tip Tops
Nickel Titanium Snake Guides
Nickel Titanium Single Foot Guides
Nickel Titanium Fishing Hooks
Stainless Steel Arches
Stainless Steel Straights
Stainless Steel Spools
Stainless Steel Utility Arches
Stainless Steel Springs
Stainless Steel Kobayashi Ties
Stainless Steel Ligature Ties
Stainless Steel Ligature Wires
Stainless Steel Posted Arches
Stainless Steel Hooks
Stainless Steel Strengtheners
Stainless Steel Wrenches

Stainless Steel Stop Locks

Stainless Steel T-Ends

Stainless Steel Canes

Stainless Steel Lip Bumpers

Stainless Steel 3-Strand Arches

Stainless Steel 3-Strand Straights

Stainless Steel 3-Strand Spools

Stainless Steel Coax Arches

Stainless Steel Coax Straights

Stainless Steel Coax Spools

Stainless Steel 8-Braid Arches

Stainless Steel 8-Braid Straights

Stainless Steel 8-Braid Spools

$\beta_{W-CNA}^{\text{®}}$ Arches

$\beta_{W-CNA}^{\text{®}}$ Straights

$\beta_{W-CNA}^{\text{®}}$ Spools

$\beta_{W-CNA}^{\text{®}}$ Springs

$\beta_{W-CNA}^{\text{®}}$ Mushroom Looped Arches

$\beta_{W-CNA}^{\text{®}}$ T-Looped Arches

Nickel Titanium 24K Gold Arches

Stainless Steel 24K Gold Arches

Utiloy Arches

Utiloy Straights

TMA Springs

Nickel Titanium Expanders

Nickel Titanium Rotators

Nickel Titanium Vogt Springs

EXHIBIT C

Updated as of January 2009

[LETTER TO CALIFORNIA CUSTOMERS]

Dear Customer:

In November 1986, the voters of California passed Proposition 65, the Safe Drinking Water and Toxic Enforcement Act of 1986. Proposition 65 requires that individuals must be warned of exposure to certain chemicals identified by State to cause cancer or birth defects or other reproductive harm. A copy of the list of chemicals cover by this law can be found at <http://www.oehha.org/prop65.html>. The State of California has identified nickel and numerous other chemicals that might be found in orthodontic products as chemicals that cause cancer and/or reproductive harm and has adopted regulations that establish warning requirements for some of these chemicals at levels far below the levels allowed by the United States Food and Drug Administration.

Ultimate Wireforms, Inc. is a manufacturer of orthodontic products that contain nickel. Therefore, California law requires us to provide the following warning to our customers. It is applicable to all of our orthodontic products containing nickel:

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

The Proposition 65 warning requirements as codified in California regulations (Title 27 of the California Code of Regulations (CCR), sections 25000 to 27001 inclusive) may require you to either pass on this information to your customers or review this information with your patients as part of the informed consent procedure before orthodontic procedures.

Please be assured that you can depend upon Ultimate Wireforms to continue to provide you with the highest quality products available. If you have any questions concerning this matter, please feel free to contact us.

Sincerely,

1 Jeffrey B. Margulies (Bar No. 125002)
2 HAIGHT, BROWN & BONESTEEL, L.L.P.
3 1620 26th Street, Suite 4000 North
4 Santa Monica, California 90404-4913
5 Telephone: (310) 449-6000
6 Facsimile: (310) 829-5117

7 Attorneys for Defendant
8 ULTIMATE WIREFORMS, INC.

FILED
LOS ANGELES SUPERIOR COURT
AUG 17 2001
AUG 22 2001
BY [Signature] DEPUTY

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 FOR THE COUNTY OF LOS ANGELES, CENTRAL DISTRICT

11 CONSUMER CAUSE, INC.,
12 Plaintiff,
13 v.
14 ULTIMATE WIREFORMS, INC.,
15 Defendant.

Case No. BC 243 038
CONSENT JUDGMENT
Complaint Filed: January 9, 2001
Sept 2001

17 1 INTRODUCTION

18 1.1 On January 9, 2001, Consumer Cause, Inc., on behalf of itself and the People
19 of the State of California, filed a complaint in the Superior Court for County of Los
20 Angeles against defendant Ultimate Wireforms, Inc. ("Settling Defendant"). The
21 complaint alleged that Settling Defendant violated The Safe Drinking Water and Toxic
22 Enforcement Act of 1986 ("Proposition 65"), *Health and Safety Code* § 25249.5, et seq.,
23 and *Business & Professions Code* § 17200 et seq. ("The Unfair Competition Law" or
24 "UCL").

25 1.2 Plaintiff acts on behalf of the general public of the State of California only as
26 to those matters described in the complaint, and notice of intent to sue dated October 20,
27 2000, a copy of which is attached as Exhibit A, which Plaintiff sent to Settling Defendant
28 and public enforcers as required by *Health and Safety Code* § 25249.7.

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HAIGHT, BROWN &
BONESTEEL, L.L.P.
Santa Monica

(310) 449-6000
310 829-5117

1 1.3 Settling Defendant manufactures, imports, and/or distributes orthodontic
2 products that contain nickel ("Covered Products"). A complete list of Covered Products is
3 attached hereto as Exhibit B. The complaint alleges that Covered Products expose
4 individuals to nickel, a chemical known to the State of California to cause cancer, and that
5 Settling Defendant has violated provisions of Proposition 65, and the UCL, because it has
6 not first provided a clear and reasonable warning to such individuals.

7 1.4 For purposes of this Consent Judgment only, the parties stipulate that this
8 court has jurisdiction over the allegations of violations contained in the Plaintiff's
9 complaint and personal jurisdiction over Settling Defendant as to the acts alleged in the
10 complaint, that venue is proper in the county of Los Angeles, and that this court has
11 jurisdiction to enter this Consent Judgment.

12 1.5 For the purpose of avoiding prolonged litigation, the parties enter into this
13 Consent Judgment as a full settlement of all claims that were or could have been raised in
14 the complaint based upon the facts alleged therein, or which could have been raised in the
15 complaint arising out of the facts alleged therein. This Consent Judgment is a compromise
16 of disputed claims, and none of the provisions herein shall be construed as an admission by
17 any party of any fact, finding, issue of law, or violation of law, including Proposition 65,
18 the UCL, or any other statute, regulation, or common law requirement related to alleged
19 exposure to nickel from the Covered Products. Neither shall this consent judgment be
20 construed as an admission that any act provided for herein, or any warnings regarding
21 exposure to nickel from the Covered Products are required under Proposition 65, the UCL,
22 or any other statute, regulation, or common law requirement. However, this paragraph
23 shall not diminish or otherwise affect the obligation, responsibilities, and duties of the
24 parties under this Consent Judgment.

25 **2 INJUNCTIVE RELIEF**

26 2.1 The provisions of paragraph 2 shall apply only to Covered Products that are
27 first labeled or packaged 120 days after entry of this Consent Judgment, and subsequently
28 distributed for sale in California.

© 10
LAW OFFICES OF
SCOTT W. LEE
SAN FRANCISCO
UNIVERSITY MICROFILMS
SERIALS ACQUISITION
300 N ZEEB RD
ANN ARBOR MI 48106

1 2.2 Settling Defendant shall, on an annual basis, send to each of its customers
2 whom it knows or has reason to believe will either (a) ship or deliver a Covered Product
3 for use in California, or (b) use a Covered Product in California, a letter substantially
4 similar in form and content to the letter set forth as Exhibit C hereto.

5 2.3 Alternative Warning Requirements. If, with respect to Covered Products, the
6 Attorney General of the State of California or Plaintiff permit any other warning standard
7 or vary the permissible manner, form, size or content of the warning, as to any particular
8 class of potentially exposed persons, by way of settlement or compromise with any other
9 person in the course of doing business, or any other entity, or if another warning standard,
10 manner, form, size or content of warning is incorporated by way of final judgment as to
11 any other person in the course of doing business, or any other entity, then Settling
12 Defendant may, at its sole option, give warnings on the same terms as provided in those
13 settlements, compromises or judgments, whereupon such Settling Defendant shall have no
14 further obligation pursuant to this section.

15 2.4 If the warning requirements for nickel exposure from Covered Products
16 under Proposition 65 should no longer be required, as for example: (1) due to the
17 promulgation of a safe use determination; (2) due to amendment of either Proposition 65 or
18 its implementing regulations; or (3) due to the removal of nickel from the list of chemicals
19 known to the State of California to cause cancer or reproductive toxicity, then Settling
20 Defendant will have no further obligations pursuant to this Consent Judgment.

21 **DUTIES LIMITED TO CALIFORNIA**

22 3.1 This Consent Judgment shall have no effect on Covered Products sold by
23 Settling Defendant and shipped to customers for use outside the State of California.