

**IN THE DISTRICT COURT FOR MAYES COUNTY
STATE OF OKLAHOMA**

STEVEN W. LEMMINGS)	
and the CITY OF PRYOR CREEK, et al.,)	
on behalf of themselves and all other)	CASE NO. CJ-2004-62
persons or entities similarly situated,)	
)	CLASS ACTION
Plaintiffs,)	
vs.)	
)	
SECOND CHANCE BODY ARMOR,)	
INC., TOYOBO COMPANY, LTD.,)	
TOYOBO AMERICA, INC.,)	
OKLAHOMA POLICE SUPPLY, INC.,)	
OKLAHOMA POLICE SUPPLY, LLC,)	
JOHN DOE, INSURANCE COMPANIES,)	
SELLERS, DISTRIBUTORS,)	
ADVERTISERS, AND INDIVIDUALS,)	
)	
Defendants.)	

STIPULATION OF SETTLEMENT

WHEREAS, Plaintiffs believe the Related Actions have substantial merit, Class Counsel recognizes and acknowledges the expense and length of continued proceedings necessary to prosecute the Related Actions against the Defendants through trial and through appeals. Counsel for Plaintiffs also have taken into account the uncertain outcome, risk and delay inherent in any litigation, especially in complex actions such as the Related Actions, the strengths and weaknesses of the claims and defenses asserted in the Related Actions, and the substantial benefits which will

be conferred on the Class Members by the expeditious settlement set forth in this Stipulation. Based on all of the foregoing, Plaintiffs and Class Counsel have determined that the settlement set forth in this Stipulation is fair and reasonable and in the best interests of the Plaintiffs and of all Class Members; and

WHEREAS, Defendants believe the Related Actions are without merit, Defendants have agreed to enter into this Stipulation solely to avoid further litigation expense and inconvenience and to remove the distraction of burdensome and protracted litigation. Defendants have denied and continue to deny each and every claim and contention by Plaintiffs in the Related Actions. Defendants have asserted and continue to assert many defenses to the Related Actions and have expressly denied and continue to deny any wrongdoing or legal liability to the Plaintiffs or the Class Members arising out of conduct alleged in the Related Actions or otherwise; and,

WHEREAS, this Stipulation is made and entered into by and among Steven W. Lemmings and the City of Pryor Creek on behalf of a national class of similarly situated plaintiffs defined as:

All persons and entities in the United States and its territories, who have purchased, possess or own a bullet proof vest manufactured by Defendant Second Chance Body Armor, Inc., which contains Zylon®, a fiber manufactured and sold by Defendants Toyobo Company, Ltd., and Toyobo America, Inc. Excluded from the Class are Defendants; Defendants' affiliates, parents and subsidiaries; all directors, officers, agents, and employees of Defendants; and person or entity who timely opts out of this proceeding; and any claims belonging to the federal government. This class does not include or affect present or future personal injury claims

and Toyobo Co., Ltd. and Toyobo America, Inc., by and through their duly authorized counsel in the above-captioned action; and,

WHEREAS, this Stipulation is intended by the Parties to fully, finally and forever resolve, discharge and settle the Related Actions and Released Claims, upon and subject to the terms and conditions herein; and

WHEREAS, Plaintiffs and Defendants agree to be bound by this Stipulation, pending Final Approval, as hereinafter defined, of the settlement set forth herein;

THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned attorneys as follows:

I. DEFINITIONS

1. The following definitions shall govern the terms used in this Stipulation:

“Action” shall mean *Lemmings, et al. v. Second Chance Body Armor, et al.*, No. CJ-2004-64, District Court for Mayes County, Oklahoma.

“Claims Administrator” shall mean Kinsella/Novak Communications, Ltd. and Rust Consulting, Inc, or the person or entity otherwise selected by the Parties and approved by the Court for the purpose of implementing the Notice Program (Exhibit D hereto) and for handling inquires and receiving submissions from Class Members as set forth herein.

“Class” shall mean the class covered by this Settlement Agreement, as defined by the Court’s February 9, 2005 Order Certifying Class Action with Findings of Fact and Conclusions of Law.

“Class Counsel” shall refer to Plaintiffs’ National Lead Counsel Allan Kanner, Esq., Allan Kanner & Associates, P.L.L.C., 701 Camp Street, New Orleans, Louisiana 70130.

“Class Members” shall mean those persons who are within the definition of the Class and who do not choose to Opt-Out.

“Class Notice” shall mean the Court approved forms of notice of the Court’s preliminary approval of the proposed Settlement and notice of Final Approval Hearing to the Class Members, copies of which are attached hereto as Exhibits E and F.

“Court” shall mean the District Court of Mayes County, Oklahoma, the Honorable James D. Goodpaster presiding.

“Defendants” shall mean Toyobo Company, Ltd. and Toyobo America, Inc. and their affiliates, subsidiaries, and present and former directors, officers, agents and employees.

“Defendants’ Counsel” shall refer to Defendants’ National Lead Counsel, Arvin Maskin, Esq., Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York, 10153.

“Effective Date” shall mean the date the Court preliminarily approves the Settlement and this Stipulation becomes effective.

“Final” shall mean that no timely appeals have been taken or that all appeals from the Final Judgment approving this Stipulation (including any petitions for rehearing, rehearing *en banc* or review by the United States Supreme Court) have been resolved favorably to the judgment.

“Final Approval Hearing” shall mean the hearing at which the Court will consider and finally decide whether to approve this Settlement Agreement, approve payment of fees and expenses, enter the Final Judgment, and make such other final rulings as are contemplated by this Settlement Agreement.

“Final Judgment” and/or “Final Approval” shall mean the final judgment by which the Court approves this Settlement Agreement, and approves payment of fees and expenses, and makes such other final rulings as are contemplated by this Settlement Agreement. The Final Judgment must be substantially in the form attached as Exhibit H, with such additional orders as may be determined by the Court only when this Settlement Agreement expressly leaves matters to the determination of the Court.

“Notice Plan” shall mean the program for disseminating and publishing the Class Notice in accordance with the terms hereof and under Exhibit D hereto.

“Objection Date” shall mean the date agreed upon by the Parties or otherwise ordered by the Court for Class Members to object to the Settlement Agreement’s terms or provisions and submit any required statements, proof, or other materials and/or argument.

“Opt-Out Deadline” shall mean the date agreed upon by the Parties or otherwise ordered by the Court, by which any Class Members who do not wish to be included in the Class and participate in the Settlement Agreement must complete the acts necessary to properly effect such election.

“Parties” shall mean Defendants, Plaintiffs, including the Class Members, and their respective representatives.

“Plaintiffs” shall refer to the Court approved class representatives, namely Steven W. Lemmings and the City of Pryor Creek (Chief Nichols).

“Preliminary Approval Hearing” shall mean the hearing set by the Court to preliminarily approve this Settlement Agreement.

“Preliminary Approval Order” shall mean the order of the Court preliminarily approving this Settlement Agreement, substantially in the form attached as Exhibit C.

“Related Action Plaintiffs” shall mean those Class Members whose time and efforts substantially contributed to the Action, the Related Actions or otherwise aided Class Counsel and the Class in reaching the Settlement, including the City of Bridgeton, Mark LaBrosse, Patrick Johnson, Bryan Barnes, Jack Jordan, William Javins, Craig Nutter, Buchanan County, Missouri, Patrick Scannell, Southern States Police Benevolent Association, Dawn Habel, Gerald Wakefield, Alan Kitzens, Marquenta A. Sands, Mike Bookser (on behalf of the Bellevue Police Department), Charles Bollinger, Parke County Sheriff’s Department, Mark E. Hansen, Kevin Dizon, Irma Ellis, Dean R. Hess, Toby Darby, Keith Stonebraker, Steven Ellis and Carlos Santillan.

“Related Actions” shall mean the Action and all other cases based upon substantially similar allegations against Defendants, including but not limited to the actions filed by Class Counsel – *Bryan Barnes, et al., v. Toyobo Company, Ltd., et al.*, No. BC 308182 (Superior Court of California, County of Los Angeles, Central District); *Patrick L. Johnson, et al., v. Second Chance Body Armor, Inc., et al.*, No. 1:05-CV-00197-DWM (U.S.D.C. Western District of Michigan); *Mark P. LaBrosse, et al., v. Toyobo Company Ltd., et al.*, No. 2:04CV74435 (U.S.D.C. Eastern District of Michigan); *Buchanan County, Missouri v. Toyobo Co., Ltd., et al.*, No. 05BU-CV00353 (Circuit Court of Buchanan County, Missouri, Division 2); *City of Bridgeton, et al., v. Second Chance Body Armor, Inc., et al.*, No. CUM-L-000036-04 (Superior Court of New Jersey, Cumberland County); and *Jack Jordan, et al., v. Toyobo Co., Ltd., et al.*, No. 05-C-294 (Circuit Court of Kanawha County, West Virginia) currently pending in California, Michigan, New Jersey, Missouri and West Virginia.

“Released Claims” shall mean any and all manner of claims, demands, actions, suits, and causes of action released under ¶ 4 and Exhibit A hereto.

“Released Parties” shall mean those persons and entities released under ¶ 4 and Exhibit A hereto and more particularly defined therein.

“Second Chance” shall mean Second Chance Body Armor, Inc. and its affiliates, subsidiaries, and present and former directors, officers, agents and employees.

“Settlement” or “Settlement Agreement” or “Stipulation” shall mean this Stipulation of Settlement regarding the Related Actions, including but not limited to all conditions, releases, consideration, remedies and other terms set forth herein, in the exhibits hereto, or in the related documents referenced herein.

II. TERMS AND CONDITIONS

2. This Stipulation of Settlement (the “Stipulation”) is submitted pursuant to 12 O.S. §2023 for purposes of settlement only. Subject to the approval of the Court, this Stipulation is entered into between and among (i) Plaintiffs on behalf of themselves and the Class (as hereinafter defined) and (ii) Defendants, by and through their respective counsel.

3. **Class Definition.** Pursuant to the Court’s February 9, 2005 Order Certifying Class Action with Findings of Fact and Conclusions of Law, the Class is defined as follows:

All persons and entities in the United States and its territories, who have purchased, possess or own a bullet proof vest manufactured by Defendant Second Chance Body Armor, Inc., which contains Zylon®, a fiber manufactured and sold by Defendants Toyobo Company, Ltd., and Toyobo America, Inc. Excluded from the Class are Defendants; Defendants' affiliates, parents and subsidiaries; all directors, officers,

agents, and employees of Defendants; and person or entity who timely opts out of this proceeding; and any claims belonging to the federal government. This class does not include or affect present or future personal injury claims.

The Class is not intended to, and does not, include the authorized distributors of Second Chance who sold the subject vests.

4. **Releases.**

(a) By this Stipulation of Settlement, Defendants are released from all claims or causes of action based on or related to the same or similar factual predicate as that underlying the claims in the Related Actions, including but not limited to claims that Defendants manufactured and/or sold Zylon for use in Second Chance bulletproof vests, claims that Defendants knew or should have known that Zylon is defective because, *inter alia*, it is subject to degradation under conditions of high heat and humidity and that such degradation renders bulletproof vests ineffective and unsuitable for their intended use, and claims that Defendants failed to disclose this information in connection with its manufacture and/or sale of Zylon for use in bulletproof vests, even though such claims were not presented and might not have been presentable in the Related Actions, including but not limited to claims under Plaintiffs' respective states' consumer protection and deceptive trade practices statutes and comparable commercial law and other theories (whether based upon state or federal law), conspiracy, fraud, negligence, breach of warranty and/or breach of contract and the other claims set forth in the Release attached hereto as Exhibit A. Upon Final Approval of this Settlement, Plaintiffs, for themselves and on behalf of the Class Members, will execute and deliver a General Release in the form attached as Exhibit A.

Further, Class Members and Defendants, and each of them, also specifically acknowledge that they are aware of and familiar with §1542 of the California Civil Code, which provides: “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 if known by him must have materially affected his settlement with the debtor.” To the extent that notwithstanding the choice of law provision herein, California or other law may be applicable, and being aware of this Section, the Class Members and Defendants, and each of them, hereby expressly waive and relinquish all rights and benefits they may have under California Civil Code Section 1542, as well as under any other statutes, codes or common law principles of similar effect in any other jurisdiction(s), whether state or federal. The Parties also expressly understand and agree that this Stipulation constitutes an accord and satisfaction of the claims released herein by and between them.

This Stipulation of Settlement does not affect the rights of Class Members who timely and properly opt-out of the Class.

(b) The Parties do not intend this Stipulation, any part hereof, or any other aspect of the Stipulation, to release, or otherwise affect in any way any rights any Class Member has or may have against any other party or entity whatsoever other than the Defendants as defined herein with respect to the Released Claims. Class Members shall retain all rights against Second Chance and any other person or entity. This Settlement in no way affects, and is not intended to release claims of personal injury belonging to any individual. This Settlement in no way affects, and is not intended to release claims of the federal government. Moreover, with respect to a state governmental entity that is a Class Member, the releases shall only apply to purchases of Second Chance Zylon-containing vests

and the releases shall not act as a release of any claim the governmental entity has or may have with respect to any police powers it may assert.

5. **Settlement Consideration.** Subject to the provisions hereof, and in full, complete and final settlement of the Related Actions as provided herein, Defendants agree to the following consideration:

(a) **Settlement Fund.** Within ten (10) business days after the Court enters the Preliminary Approval Order, Defendant Toyobo Co., Ltd. shall deposit twenty-nine million dollars (\$29,000,000.00) (the “Settlement Fund”) into an Escrow Account that shall be established and administered pursuant to an Escrow Agreement in a form to be agreed to by the Parties for the benefit of all Class Members. The entire Settlement Fund, including interest earned thereon will be distributed to Class Members on a pro rata basis. The Settlement Fund shall be invested by the Escrow Agent (as defined in the Escrow Agreement) in short term United States agency or Treasury Securities (or a mutual fund invested solely in such instruments) or other similar short-term United States government obligations such as repurchase agreements backed by United States obligations, and any interest earned thereon shall become part of the Settlement Fund. Defendant Toyobo Co., Ltd.’s transfer of the Settlement Fund to the Escrow Account shall satisfy Defendants’ obligation to make payments under this Stipulation, except as otherwise provided herein. Unless the Settlement is terminated, no monies paid herein shall revert to Defendant Toyobo Co., Ltd. If the Stipulation becomes null and void for any reason, or the Stipulation is terminated, the \$29,000,000.00 shall be returned to Defendant Toyobo Co., Ltd., together with interest earned thereon while in the Escrow Account, without need for motion by Defendants or further notice, within ten (10) business days after

the Stipulation becomes null and void, or the Stipulation is terminated. The Court shall retain jurisdiction to enter all orders necessary to enforce such obligation.

(b) **Replacement Vest Option.** Defendants have caused to be created a replacement vest option in which Class Members will have the option to purchase a replacement vest from Armor Holdings Products, L.L.C. (“Armor”) at a deeply discounted price. The Replacement Vest Option is set forth in detail in the letter agreement entered into between Class Counsel and Armor, attached hereto as Exhibit B. In general, the Replacement Vest Option provides the following benefits for Class Members:

Armor shall manufacture and make available to Class Members all of its standard concealable ballistic resistant soft body armor otherwise commercially available to Class Members at the most favorable negotiated state contract and/or agency commercial prices made available by Armor directly to domestic law enforcement officers. These vests and associated prices are listed in Exhibit A to the letter agreement attached hereto as Exhibit B.

Level IIA vests will not be sold; therefore, any Class Member that had a Level IIA vest will be upgraded to a Level II or a Level IIIA vest. Each replacement Armor vest will come with a five year warranty, one extra carrier (for a total of 2 carriers), and Armor will waive the fifty dollar sizing fee customarily built-in to the price of the vests and paid by Armor to the distributors, thus allowing for the deeper discounts to Class Members. Additionally, Armor shall enroll each of the vests issued to Class Members into its Vestcheck (“Vestcheck”) program, and shall make the test results and supporting documentation from Vestcheck testing available to Class Counsel and Class Members upon reasonable request.

Armor shall be responsible for all transaction costs associated with the purchase and delivery of each of the vests issued to Class Members, and Armor shall set up an administration process at its own expense and insure that trained personnel are available during normal business hours to assist Class Members with the Replacement Vest Option. Armor shall make the benefits of the Replacement Vest Option as described herein and in Exhibit B available to Class Members for a period of five (5) years; however, any Class Member that wishes to avail themselves of the benefits provided in the Replacement Vest Option must elect to do so within one (1) year from the date the Settlement becomes Final.

Alternatively, Class Members shall have the option of receiving a non-refundable credit or voucher from Armor. In addition to the other benefits provided in the Replacement Vest Option, any Class Member who elects to take Armor credit or an Armor voucher rather than their share of cash from the Settlement Fund will receive an additional twenty-five (\$25.00) dollars in credit per vest to purchase an Armor replacement vest or any other Armor product available from Armor's distributors. For example, the Armor credit or voucher can be used to buy holsters, batons, helmets, gloves, etc., from any authorized Armor distributor. Any Class Member who chooses an Armor credit or voucher must use the credit or voucher within five (5) years from the date the Settlement becomes Final.

If the Settlement fails to become Final or if Armor's obligations or responsibilities under the Replacement Vest Option are materially changed from those herein and in Exhibit B, Armor's obligations under the Replacement Vest Option shall be null and void. In the event Armor's obligations under the Replacement Vest Option become null and void or become unenforceable as

contemplated by Class Counsel prior to or upon Final Approval, Class Counsel shall have the right to terminate this Settlement Agreement by sending written notice to Defendants' Counsel.

(c) **Corporate Conduct.** Defendants agree to continue to provide information to their customers regarding the characteristics of Zylon fiber and to instruct their customers to test Zylon-containing products manufactured and/or sold by the customers to insure that the products are safe and appropriate for the end users for the life of the product.

6. **Qualified Settlement Fund.** The Escrow Account is intended by the Parties hereto to be treated as a single "qualified settlement fund" for federal income tax purposes pursuant to Treas. Reg. § 1.468B-1, and to that end the Parties hereto shall cooperate with each other and shall not take a position in any filing or before any tax authority that is inconsistent with such treatment. Whether or not Final Approval of this Settlement has occurred, and whether or not the Escrow Account qualifies as a qualified settlement fund within the meaning of Treas. Reg. § 1.468B-1, the Escrow Agent shall cause to be paid from the Escrow Account any taxes or estimated taxes due on any income earned on the funds in the Escrow Account and all related costs and expenses. The Parties elect that the Escrow Account should be treated as a qualified settlement fund from the earliest possible date and agree to make any "relation back" election that may be available. If amounts received by the Class Members, or by Defendants upon any refund or other reversion, are construed to be income, it is the recipient's sole responsibility to pay taxes on the amount construed to be income, plus any penalties or interest.

7. **Most Favored Nation.** If either or both Defendants enter into a settlement agreement with another plaintiff or group of plaintiffs, including governmental entities, which contains more

favorable terms than those afforded to the Class, Defendants must increase the benefits it provided to the Class so as to make the benefits to the Class as favorable as that afforded to the subsequently settling plaintiff or group of plaintiffs. The phrase “more favorable terms” as used in this provision includes monetary payments, fees, costs or any non-monetary relief. This obligation on the part of Defendants, by its terms, expires eighteen (18) months from the date of Final Approval of the Settlement.

8. **All Claims Satisfied by Settlement Fund.** Each Class Member shall look solely to the Settlement Fund for settlement and satisfaction, as provided herein, of all Released Claims. The Settlement Fund is for the benefit of the Class and is to be allocated among all Class Members.

9. **Court Approval of Disbursements and Distributions.** Court approval shall be required prior to any disbursement or any distribution from the Settlement Fund, other than for any fees and expenses incurred to administer the Escrow Account and the Settlement Fund under the Escrow Agreement, taxes on the Settlement Fund or a refund to Defendants if the Settlement fails.

10. **Incentive Awards.** Given the efforts of the Plaintiffs and the Related Action Plaintiffs in the Action and in the Related Actions, Plaintiffs and Related Action Plaintiffs will receive an incentive award to be paid by Defendant Toyobo Co., Ltd. Defendant Toyobo Co., Ltd. agrees to make a one-time, lump-sum payment of sixty thousand dollars (\$60,000.00) to Class Counsel for incentive awards, subject to Court Approval. Class Counsel shall have the sole discretion and responsibility for dividing and distributing the incentive award payment by Defendant Toyobo Co., Ltd. among the Plaintiffs and the Related Action Plaintiffs. Payment of incentive

awards to the Plaintiffs and the Related Action Plaintiffs will not reduce any benefits being made available to the Class.

11. **Attorneys' Fees and Costs.** Separate and apart from the above mentioned consideration, Defendant Toyobo Co., Ltd. will pay all attorneys' fees and costs for prosecution of the Related Actions and for implementation of this Settlement in the amount of \$9,400,000.00, subject to Court approval. Class Counsel shall be responsible for dividing and distributing the payment of attorneys' fees and cost among the members of Class Counsel's team. Class Counsel's application to the Court for an award of attorneys' fees and costs shall be made on or before the date of the Final Approval Hearing and considered at that time. Payment of attorneys' fees and costs will not reduce any benefits being made available to the Class. Class Members will not be required to pay any portion of Class Counsel's attorneys' fees or costs.

Subject to the conditions set forth below, agreed upon attorneys' fees to be approved by the Court shall be paid by Defendant Toyobo Co., Ltd. within ten (10) business days after the Court enters the Preliminary Approval Order. Payment will be made to Class Counsel and placed in an interest bearing Escrow Account set up by Class Counsel for this purpose and according to the terms of the Escrow Agreement entered into by the Parties. The money may be paid out to Class Counsel as quick pay, subject to the requirement that a letter of credit satisfactory to Defendant Toyobo Co., Ltd. be executed and delivered to Defendant Toyobo Co., Ltd. prior to any withdrawal from the Escrow Account. In the event that the letter of credit expires prior to final resolution of this matter, then the letter of credit shall be timely renewed, or, in the alternative, all monies shall be returned to the Escrow Account.

If the Stipulation becomes null and void for any reason, or the Stipulation is terminated, Class Counsel shall be obligated to return this \$9,400,000.00 to Defendant Toyobo Co., Ltd., together with interest thereon earned while in the Escrow Account, without need for motion by Defendants or further notice, within ten (10) business days after the Stipulation becomes null and void or the Stipulation is terminated. In the event that all or any portion of the \$9,400,000.00 is withdrawn or removed from the Escrow Account and the Stipulation becomes null and void or the Stipulation is terminated, then Class Counsel shall be obligated to return the funds remaining in the Escrow Account along with interest earned thereon, along with the funds removed from the Escrow Account and an amount representing the interest that would have been earned thereon if the funds had remained in the Escrow Account. The Court shall retain jurisdiction to enter all orders necessary to enforce such obligation.

12. **Motion for Preliminary Approval.** As soon as possible and in no event later than ten (10) business days after execution of this Stipulation, the Parties shall submit to the Court a Joint Motion for Preliminary Approval of the Settlement set forth in this Stipulation and request entry of the Preliminary Approval Order substantially in the form annexed hereto as Exhibit C.

13. **Notice to Class.** It is the intent of the Parties to have the best notice practicable in order to maximize participation in the Settlement. The Parties shall agree to a Notice Plan and present it to the Court for approval. All costs associated with the Notice Plan and subsequent administration will be borne by Defendants. In connection with the Notice Plan, Class Counsel agrees to share with Defendants' Counsel any lists of Class Members that have been prepared or generated in connection with the notice plan for the *Lemmings* class certification. The Parties further

agree to share notice information with other interested parties such as state attorneys general, law enforcement associations and fraternal organizations, and Armor Holdings Products, L.L.C., to maximize participation in this Settlement.

14. **Opt-Out and Due Process Rights.** Class Members may exclude themselves from the Class by mailing a written request for exclusion in accordance with the procedures set forth in the Preliminary Approval Order and/or the Class Notice. All opt-out requests must be in writing and must be sent to the Claims Administrator with a copy to Class Counsel and Defendants' Counsel, as provided below in ¶¶ 17, 18. The opt-out request must state: (1) the person's name, address and telephone number; (2) the model and threat level of the vest and the serial number of each panel of the vest at issue; (3) a statement that the person wishes to be excluded from the Class; and, (4) a statement that the person understands that they will not be eligible for any of the rights or remedies set forth herein. In the event a request for exclusion is being submitted on behalf of an organization or otherwise representing a group of vests, the person submitting the request for exclusion must certify that he/she has authority to act on behalf of the organization or group of vests. All requests for exclusion must be received by the Claims Administrator on or before the Opt-Out Deadline. Such a timely request for exclusion will preclude such Class Member from participating in the Proposed Settlement, and that Class Member will be unaffected by this Stipulation. Any Class Member who does not timely submit such a proper written request for exclusion will remain a Class Member and will be bound by the Settlement if Final Approval occurs. Any Class Member who does not submit a timely written request for exclusion shall be bound by all proceedings, Orders and Judgments in this Action.

If the opt-outs received from Class Members represent at least ten percent (10%) of the vests at issue, which is represented by Second Chance, based on the best available information, to be 156,363 total vests, Defendants shall have the right to terminate the Settlement Agreement by providing written notice to Class Counsel within fourteen (14) days of notification of the same by Class Counsel. For purposes of this provision, if an opt-out notice is received from an authorized organization, then the total number of vests that the authorized organization represents will be counted towards the ten percent (10%) number.

The benefits provided by this Stipulation shall not be dependent upon the number of Class Members that exercise their right to opt-out of the Class, *i.e.*, there is no reverter of funds unless the Settlement is terminated for one of the reasons set forth in ¶21.

15. **Opportunity To Opt Back In.** Individuals or entities that previously opted out of the Class pursuant to the prior class certification notice issued in the Action, shall be provided the opportunity to opt back into the Class to take advantage of the settlement benefits. In order to opt back into the Class, these individuals or entities must return the Opt-In Request that will be sent to them pursuant to the Notice Plan, subject to Court approval. Exhibit G. All opt-in requests must be sent to the Claims Administrator with a copy to Class Counsel and Defendants' Counsel, as provided below in ¶¶ 17, 18 by the Opt-Out Deadline. All individuals or entities that would be Class Members but for their previous election to exclude themselves from the Class that do not opt back in will be excluded from the Class.

16. **Filing Objections Before Final Approval Hearing.** The Parties will request that the Court enter an Order requiring any Class Member who wishes to be heard orally at the Final

Approval Hearing or who wishes for any objection to be considered to file a written notice of objection by the Objection Date and to include with said objection:

- (a) A statement of each objection asserted;
- (b) A detailed description of the facts underlying each objection;
- (c) A detailed description of the legal authorities, if any, supporting each objection;
- (d) A statement of whether the objector intends to appear and argue at the Final Approval Hearing and, if so, how long the objector anticipates needing to present the objection;
- (e) A list of the exhibits which the objector may offer during the Final Approval Hearing, along with copies of such exhibits; and
- (f) A list of all witnesses, if any, that the objector may call to give live testimony during the Final Approval Hearing and a summary of their anticipated testimony.

The agreed upon procedures and requirements for filing objections in connection with the Final Approval Hearing are intended to ensure the efficient administration of justice and the orderly presentation of Class Members' right to object to the Settlement, in accordance with such Class Members' due process rights.

The Preliminary Approval Order will require all Class Member objectors to file such notice of objection or request to be heard with the Clerk of the Court, and serve such notice of objection or request to be heard upon Class Counsel and Defendants' Counsel, at the addresses set forth in ¶17 herein, no later than the Objection Date agreed upon by the Parties. The Preliminary Approval Order will further provide that objectors who fail to properly or timely file their objections, along with the

required information and documentation set forth above, with the Clerk of the Court or to serve them as provided above shall not be heard during the Final Approval Hearing; nor shall their objections be considered by the Court; only Class Members may object to the Settlement Agreement; and persons who opt-out of the Class may not object to the Settlement Agreement.

17. **Notice to Class Counsel and Defendants' Counsel.** All notices to Class Counsel and Defendants' Counsel required under this Settlement Agreement shall be sent by first class U.S. Mail, by hand delivery, or by facsimile, to the recipients designated below. Timeliness of all submissions and notices shall be measured by the postmark if sent by mail or by the date of receipt otherwise, unless the addressee refuses or delays receipt, in which case it shall be measured by the date the submission or notice would have been delivered absent the delay or refusal. The persons designated to receive notice and/or submissions are as follows:

Class Counsel:

Allan Kanner, Esq.
Allan Kanner & Assoc., P.L.L.C.
701 Camp Street
New Orleans, Louisiana 70130
phone: (504) 524-5777
fax: (504) 524-5763

Defendants' Counsel:

Arvin Maskin, Esq.
Weil, Gotshal & Manges, L.L.P.
767 Fifth Avenue
New York, New York 10153
phone: (212) 310-8000
fax: (212) 310-8007

18. **Submissions to Claims Administrator.** All submissions to the Claims Administrator required under this Settlement Agreement shall be sent by first class U.S. Mail, by hand delivery, or electronically, to the Zylon Class Administrator, P.O. Box 1700, Faribault, MN 55021-1700, (877) 567-2754, www.zylonvestclassaction.com. Timeliness of all submissions and notices shall be measured by the postmark if the submission is made by mail, or by the date of actual

receipt if the submission is made by hand or electronic means, unless the addressee refuses or delays receipt, in which case it shall be measured by the date the submission or notice would have been delivered absent the delay or refusal. In the event that the Court appoints a Claims Administrator other than the above-listed firm, then submissions shall be sent to the Court-appointed Claims Administrator.

19. **Form and Substance of Notice.** The Notice Plan will consist of the following: (i) approval by the Court of a written Class Notice substantially in the form attached as Exhibit E; (ii) approval by the Court of Summary Notice of Settlement attached as Exhibit F; (iii) establishment of a national toll free hotline, post office box and internet website, subject to Court approval, for use by Class Members; (iv) mailing of the written Class Notice to known Class Members; (v) publication of the Summary Notice as set forth in the Notice Plan, Exhibit D; (vi) outreach program to various law enforcement organizations and state and local governments as set forth in the Notice Program, Exhibit D; (vii) mailing of the written Class Notice to state attorneys general; (viii) mailing of the written Class Notice to major distributors of Second Chance; and (ix) utilization of the toll free telephone number, post office box and internet website to provide information regarding the Proposed Settlement and to be available to Class Members who wish to obtain copies of the Class Notice and Stipulation. Such telephone number, post office box and internet website shall be referred to in the Class Notice described herein, and shall be maintained until the expiration of the period established by the Court.

20. **Entry of Final Judgment.** If, after the Final Approval Hearing scheduled by the Court in the Preliminary Approval Order, the Court approves this Stipulation as fair, reasonable and

adequate, then counsel for the Parties shall request that the Court enter an Order and Final Judgment in a form to be agreed to by the Parties and approved by the Court, attached hereto as Exhibit H.

21. **Conditions Precedent to Settlement.** The following conditions precedent are agreed to be material to the Proposed Settlement, such that the failure of any of these conditions shall provide each Party the right to terminate the Proposed Settlement and Stipulation:

- a. The completion of confirmatory discovery deemed to be necessary by the Court, if any;
- b. Less than 10% of the vests at issue, represented to be 156,363 vests, are opted-out of the Class;
- c. Armor's obligations and responsibilities under the Replacement Vest Option are not materially changed;
- d. Court approval of agreed-upon amounts for attorneys' fees, incentive awards and costs;
- e. The entry of the Preliminary Approval Order;
- f. The approval of the Class Notice and Notice Plan;
- g. Final Approval by the appropriate appellate court or the expiration of the time in which an appeal must be perfected after Court approval.

If Defendants' Counsel or Class Counsel elects to terminate the Settlement due to a failure of one of the above conditions precedent, other than (b) or (c), they shall do so by providing written notice of their election to do so ("Termination Notice") to all other Parties hereto within thirty (30) days of the above condition that failed. The procedure for Defendants to exercise their termination

rights with respect to (b) is set forth in ¶14. The procedure for the Class to exercise its termination rights with respect to (c) is set forth in ¶5(b).

22. **Reasonable Best Efforts to Effectuate This Stipulation.** The Parties and their counsel agree to use their reasonable best efforts, including all steps and efforts contemplated by this Stipulation and any other steps and efforts that may be necessary or appropriate, by order of the Court or otherwise, to carry out the terms of this Stipulation.

23. **Preservation of Rights.** The Parties hereto agree that this Stipulation, whether or not the Effective Date occurs, and any and all negotiations, documents and discussions associated with it, shall be without prejudice to the rights of any Party; shall not be deemed or construed to be an admission or evidence of any violation of any statute or law, of any liability or wrongdoing by Defendants or of the truth of any of the claims or allegations contained in the complaint or any other pleading in the Related Actions; and evidence of the Settlement, including attachments, shall not be discoverable or used directly or indirectly by the Class or third party, in any way, whether in the Action or Related Actions or in any other action or proceeding, except in connection with the Parties' application for approval or enforcement of this Stipulation and all proceedings incident thereto, including requests for attorneys' fees, costs and disbursements and compensation to the Class. The Parties expressly reserve all their rights if this Stipulation does not become final substantially in accordance with the terms of this Stipulation.

24. **Termination.** If this Stipulation is terminated, or the Effective Date is prevented from occurring for any reason, then (a) the Settlement Fund, including all accrued interest or income, shall be returned to Defendants net of (i) taxes paid or due to be paid on the Settlement Fund, (ii) the

fees and costs paid or incurred for notice and administration of the Settlement, and (iii) any fees or costs paid or incurred for administration of the Escrow Account and the Settlement Fund; (b) the Stipulation shall be of no force or effect, except for payment of any taxes, notice and administrative fees and costs or refund as referenced herein from the Settlement Fund; and (c) any release pursuant hereto shall be of no force or effect. The Parties expressly reserve all of their rights if this Stipulation is terminated or does not become final.

25. **Return of Documents.** The Parties shall be permitted to retain documents obtained in discovery pending the conclusion of this litigation, including remaining claims against co-defendants, such as Second Chance. The Parties will continue to maintain the confidentiality of documents previously designated and treated as confidential. Upon total completion of the litigation, the Parties shall return all confidential documents within sixty (60) days or elect to destroy the documents and certify to the same, per the Confidentiality Order currently in place.

26. **Stay and Resumption of Proceedings.** The Parties agree, subject to approval of the Court, that all proceedings in the Related Actions, other than proceedings relating to the Settlement contemplated herein, shall be stayed except for good cause shown or to prosecute claims against Second Chance, suppliers or others pending approval of the Settlement. In the event that this Stipulation is not approved by the Court or the Settlement is terminated or the Effective Date is prevented from occurring, all such stayed proceedings will resume in a reasonable manner to be approved by the Court.

27. **Dismissal of Related Actions.** Within ten (10) business days after entry of the Final Approval Order, and with the exception of the Action, the Parties agree to move to dismiss or cooperate to otherwise dismiss the Related Actions as to Defendants with prejudice.

28. **Consent to Jurisdiction.** The Parties hereby submit to the exclusive jurisdiction of the Court only for the specific purpose of any suit, action, proceeding or dispute arising out of or relating to this Stipulation or the applicability of this Stipulation.

29. **Resolution of Disputes: Retention of Jurisdiction.** Any disputes between or among the Parties concerning matters contained in this Stipulation shall, if they cannot be resolved by negotiation and agreement, be submitted to the Court. The Court shall retain jurisdiction over the implementation and enforcement of this Stipulation.

30. **Enforcement of Stipulation.** Subject to the terms of this Stipulation, this Stipulation may be pleaded as a full and complete defense to any action, suit or other proceeding that has been or may be instituted, prosecuted or attempted with respect to any of the Released Claims and may be filed, offered and received into evidence and otherwise used for such defense.

31. **Binding Effect.** This Stipulation shall be binding upon, and inure to the benefit of, the successors and assigns of the Parties hereto.

32. **Authorization to Enter Stipulation.** The undersigned representatives of the Parties represent that he/she is fully authorized to enter into and to execute this Stipulation.

33. **No Party Is the Drafter.** None of the Parties hereto shall be considered to be the drafter of this Stipulation or any provision hereof for the purpose of any statute, case law or rule of construction that would or might cause any provision to be construed against the drafter hereof.

34. **Choice of Law.** All terms of this Stipulation shall be governed by and interpreted according to the substantive laws of the State of Oklahoma without regard to its choice of law or conflict of law principles.

35. **Amendment or Waiver.** This Stipulation shall not be modified in any respect except by a writing executed by all the Parties hereto, and the waiver of any rights conferred hereunder shall be effective only if made by written instrument of the waiving party. The waiver by any party of any breach of this Stipulation shall not be deemed or construed as a waiver of any other breach, whether prior, subsequent or contemporaneous, of this Stipulation.

36. **Execution of Counterparts.** This Stipulation may be executed in counterparts. Facsimile signatures shall be considered as valid signatures as of the date thereof; although the original signature pages shall thereafter be appended to this Stipulation and filed with the Court.

37. **Headings Have No Legal Effect.** The headings herein are used for the purpose of convenience only and are not meant to have any legal effect.

38. **Integrated Agreement.** This Stipulation, including the exhibits hereto, contains an entire, complete, and integrated statement of each and every term and provision agreed to by and between the Parties hereto, and no representations, warranties, or inducements have been made to any Party concerning the Stipulation or its exhibits, other than the representations, warranties and covenants contained and memorialized herein. Furthermore, this Stipulation supercedes and replaces all prior negotiations, agreements or understandings, whether oral or written, among the Parties relating to the subject matter herein.

39. **Construction.** This Stipulation shall be construed and interpreted to effectuate the intent of the Parties, which is to provide, through this Stipulation, for a complete resolution of the Released Claims with respect to the Releasees.

40. **Arm's Length Negotiations.** This Stipulation, including the exhibits hereto, was executed after arm's length negotiations extending over time and based on full and complete discovery by the Parties.

41. **Partial Invalidity.** If any provision or provisions of the Stipulation is found invalid, the remaining provisions are to be construed to be enforceable.

EXECUTED and DELIVERED on or about July 11, 2005 but to be made effective as of the date on which the Court preliminarily approves this Stipulation of Settlement.

For Toyobo Co., Ltd.

By: Id. Furusawa

Print Name: Mr. Hironobu Furusawa

Position: Senior Managing Director

For Toyobo America, Inc.

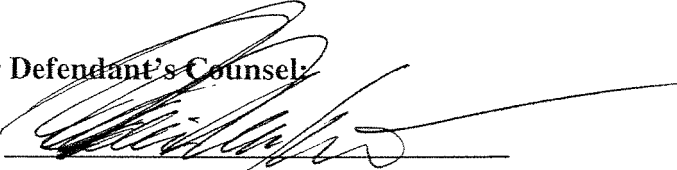
By: Shigeo Takenaka

Print Name: Mr. Shigeo Takenaka

Position: President

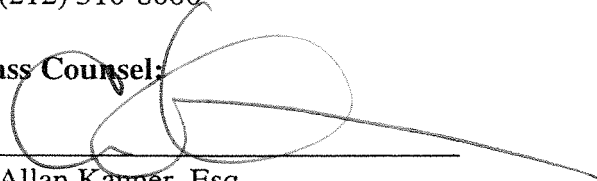
For Defendant's Counsel:

By: _____


Arvin Maskin, Esq.
Weil, Gotshal & Manges, LLP
767 Fifth Avenue
New York, New York 10153
(212) 310-8000

For Class Counsel:

By: _____


Allan Kanner, Esq.
Allan Kanner & Associates, PLLC
701 Camp Street
New Orleans, Louisiana 70130
(504) 524-5777

and

Carr, Tabb & Pope, L.L.P.
W. Pitts Carr, Esq.
10 North Parkway Square
4200 Northside Parkway, N.W.
Atlanta, GA 30327