

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
Civil Division

<p>THE HUMANE SOCIETY OF THE UNITED STATES,</p> <p style="text-align:center"><i>Plaintiff,</i></p> <p>v.</p> <p>ANDREW & SUZANNE COMPANY, INC. d/b/a ANDREW MARC, et al.,</p> <p style="text-align:center"><i>Defendants.</i></p>	<p>Civil Action No.: 2008 CA 008285 B</p> <p>Calendar No.: 5</p> <p>Hon. Natalia M. Combs Greene</p>
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**ORDER OF STIPULATED DISMISSAL
AND INCORPORATED SETTLEMENT AGREEMENT**

The Joint Motion for Stipulated Dismissal of Claims Against Defendant Andrew & Suzanne Company, Inc. (d/b/a Andrew Marc) (“Andrew Marc”), filed on behalf of Plaintiff, The Humane Society of the United States (“The HSUS”), and Defendant Andrew Marc, having been considered by the Court, it is this 24th day of March 2009,

ORDERED, that the Motion is hereby **GRANTED**¹, and that pursuant to SCR-Civil Rule 41(a)(2), all of Plaintiff’s claims against Defendant Andrew Marc in the above-captioned action be and are hereby dismissed with prejudice; and pursuant to SCR-Civil Rule 21, Andrew Marc shall be removed as a named defendant to this action; and it is further

¹ See footnote 2, *infra*.

ORDERED, that the terms of the Settlement Agreement between The HSUS and Andrew Marc, as stated below, be and hereby are incorporated into this Order of the Court, and the Court shall retain jurisdiction over the terms and conditions of the incorporated Settlement Agreement.



Natalia M. Combs Greene

(Signed in Chambers)

SETTLEMENT AGREEMENT

The Humane Society of the United States (“The HSUS”) and Andrew & Suzanne Company, Inc. (d/b/a/ Andrew Marc) (“Andrew Marc”) mutually state and agree to the following:

1. The HSUS and Andrew Marc agree that it is in the best interest of these parties, their officers, agents, and employees to enter into this Settlement Agreement. Accordingly, the terms and conditions of this Settlement Agreement shall be binding on the parties to the Agreement, their officers, agents, and employees.

2. Upon the Court’s entry of an Order incorporating this Settlement Agreement, all of The HSUS’s claims against Andrew Marc in the above-captioned action shall be dismissed with prejudice in Civil Action No. 2008 CA 008285 B, and Andrew Marc shall be removed as a named Defendant to this action.

3. The HSUS shall not pursue current claims against any remaining defendant in Civil Action No. 2008 CA 008285 B that are related to Andrew Marc garments, except that The HSUS shall be permitted to pursue claims against any remaining defendant that allege only that independent actions by a remaining defendant violate the law, and for which reference to the brand name of the garment involved is not relevant to the legal violation alleged (*i.e.*, the claims set forth in ¶¶ 26 and 34 of The HSUS' complaint).

4. The HSUS shall withdraw any and all pending petitions to the Federal Trade Commission as to the activities of Andrew Marc, and shall recommend that the Commission's investigation as to Andrew Marc and affiliated entities be closed within ten (10) days of the dismissal of this action.

5. The dismissal of the above-captioned action with prejudice to the claims raised in The HSUS' complaint and the withdrawal of any pending petitions to the Federal Trade Commission shall not preclude any future action by The HSUS concerning legal violations occurring after the date of entry of this stipulation and brought to the attention of Andrew Marc in accordance with paragraph 11 of this agreement.

6. Andrew Marc shall cease using on its garments fur from the species *Nyctereutes procyonoides*, also known as Asiatic raccoon or raccoon dog, within four years of the date of entry of this stipulation. During the first two of those four years, Andrew Marc shall limit its use of such fur to a maximum of twenty-five percent (25%) of all garments produced by it. During the final two of those four

years, Andrew Marc shall limit its use of such fur to fifteen percent (15%) of all garments produced by it.

7. Andrew Marc shall label all fur-containing garments produced after the date of entry of this stipulation with the label information required by the Fur Products Labeling Act, 15 U.S.C. § 69, *et seq.*, regardless of the amount or value of the fur in each garment. By so doing, Andrew Marc shall not avail itself of the labeling requirement exemption for fur products the cost to the manufacturer or the selling price of which is less than \$150.00, 16 C.F.R. § 301.39(a).

8. Andrew Marc shall attach “faux fur” labels in all garments produced after the date of entry of this stipulation that contain only faux fur.

9. Andrew Marc shall endorse removal of the labeling requirement exemption in the Fur Products Labeling Act and related regulations, *i.e.*, 16 C.F.R. § 301.39(a), for fur products costing the manufacturer or selling for less than \$150.00, in a written statement to The HSUS’ Chief Executive Officer, Wayne Pacelle, separate from the Settlement Agreement filed with the Court. The HSUS may use this written statement in any forum. Andrew Marc shall not be obligated to endorse any legislative provision or issue any statement other than the aforesaid written statement of endorsement, and The HSUS will not so represent.

10. Neither The HSUS nor Andrew Marc shall make, or cause to be made, any public announcement of this Settlement Agreement before March 15, 2009.

11. In the event that The HSUS determines in good faith that Andrew Marc has committed, after the date of entry of this stipulation, violations of law

related to the advertising or labeling of fur products, The HSUS shall promptly give written notice of such determination to Andrew Marc's counsel, and will not make public such allegations or seek relief from any court or administrative agency unless a satisfactory resolution of the matter is not achieved between the parties within fifteen (15) days of providing the written notice to Andrew Marc's counsel.

12. In the event that either party determines in good faith that the other party has materially violated this Settlement Agreement between the parties, it shall promptly give written notice of such determination to counsel for the party alleged to have breached the Settlement Agreement, and will not seek relief from any court unless and until a satisfactory resolution of the matter is not achieved between the parties within fifteen (15) days of providing the written notice to counsel for the party alleged to have breached the Settlement Agreement.

13. The parties to this Settlement Agreement hereby waive any and all claims for attorneys' fees and costs of litigation, including the costs of testing garments at issue in this action, through and including the date of this Settlement Agreement. Each party shall bear its own fees and costs for this litigation.

14. The HSUS and Andrew Marc agree that this Settlement Agreement was negotiated in good faith and that it constitutes a settlement of claims that were vigorously contested and denied by Andrew Marc.

15. Except as otherwise provided herein, in entering into this Settlement Agreement The HSUS does not waive, and expressly reserves, any and all claims against the remaining defendants in this matter; and Andrew Marc does not admit

liability, nor does Andrew Marc waive, and expressly reserves, all of the defenses, including but not limited to defenses relating to jurisdiction, standing, and the merits, that it has raised or may have raised in this matter. Neither party shall assert that this Settlement Agreement has the effect of any such waiver.

16. Notwithstanding the dismissal of all of The HSUS's claims as to Andrew Marc in the above-captioned matter, The HSUS and Andrew Marc hereby stipulate and respectfully request that the Court retain jurisdiction over the terms of this Settlement Agreement as may be necessary to enforce compliance with the terms of this Settlement Agreement.

17. This Settlement Agreement may be modified by the Court upon good cause shown, consistent with the Superior Court Rules of Civil Procedure, by written stipulation between the parties filed with and approved by the Court.

18. The undersigned representatives of The HSUS and Andrew Marc certify that they are fully authorized by the party they represent to agree to the Court's entry of an Order incorporating the terms and conditions of this Settlement Agreement and do hereby agree to be bound by the terms herein. The parties agree to file a motion requesting that the Court enter an Order of stipulated dismissal incorporating this Settlement Agreement not earlier than March 16, 2009, and not later than March 20, 2009.²

² The Court notes that the Motion was not filed until March 19, 2009—one day prior to the time the parties requested that the Court sign and enter the Order and Settlement Agreement. March 21st and 22nd fell on weekend days. In addition, it normally takes the Clerk's Office at least, and under the best of circumstances, two (2) days to docket a motion. This, of course, is notwithstanding any other business to which the Court might be in attendance.

IT IS SO AGREED AND STIPULATED this 16th day of February, 2009.

FOR THE HSUS

/s/ Rebecca G. Judd

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SO ORDERED this 24th day of March 2009.



Natalia M. Combs Greene

(Signed in Chambers)

The following shall be eServed on behalf of the parties:

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