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6 Attorneys for Plaintiff
 7 J. T. POSEY COMPANY

8 UNITED STATES DISTRICT COURT
 9 CENTRAL DISTRICT OF CALIFORNIA

11 J.T. POSEY COMPANY) Case No. CV 08-00910 RGK (RZx)
 12)
 13) CONSENT JUDGMENT AND ORDER
 14) OF DISMISSAL
 14 vs. Plaintiff,)
 15)
 16 E.M. ADAMS, INC.)
 17)
 18 Defendant)
 19)

21 On February 8, 2008, Plaintiff J.T. Posey Company filed its Complaint
 22 against Defendant E.M. Adams, Inc. alleging that Defendant willfully infringed J.T.
 23 Posey Company’s U.S. Patent No. 5,618,263 (“the ‘263 Patent”), titled “Soft
 24 Splint” and J.T. Posey Company’s splint trade dress rights. Among other things,
 25 the Complaint sought damages and a permanent injunction prohibiting Defendant
 26 from directly or indirectly infringing any claim of the ‘263 Patent or Plaintiff’s
 27 splint trade dress rights.
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1 On August 26, 2008, Plaintiff and Defendant entered into a Settlement
2 Agreement (“the Agreement”) pursuant to which each party has agreed to forego
3 the right to further contest its claims and defenses and to enter into certain
4 agreements with the other party to resolve the dispute which is the subject of this
5 action. Defendant denies it has violated any rights of Plaintiff.

6 NOW THEREFORE, upon consent of Plaintiff and Defendant, upon all prior
7 proceedings herein, it is

8 ORDERED, ADJUDGED AND DECREED that:

9 1. This Court has jurisdiction over the parties to this Action.

10 2. Defendant E.M. Adams, Inc. and its officers, directors, employees,
11 agents, licensees, successors and assigns and all others acting in concert and
12 participating with defendant are permanently restrained and enjoined from making,
13 using, offering for sale and selling splints that infringe the ‘263 Patent including,
14 but not limited to, the splint which is shown in Exhibit 1 attached hereto, which
15 utilizes lightweight plastic foam bead filler material.

16 3. Defendant E.M. Adams, Inc. and its officers, directors, employees,
17 agents, licensees, successors and assigns and all others acting in concert and
18 participating with defendant from

19 a. Directly or indirectly manufacturing, producing, printing,
20 distributing, importing, trafficking in, selling, offering for sale,
21 possessing, advertising, promoting or displaying any splint products,
22 bearing any simulation, reproduction, copy or colorable imitation of
23 Plaintiff’s Splint Trade Dress which is defined as a splint that is
24 approximately half blue and approximately half white.

25 b. Directly or indirectly printing and/or importing into the United States
26 any containers, labels or packaging and/or instructing and directing
27 any third parties to make containers, labels or packaging bearing any
28

1 simulation, reproduction, copy or colorable imitation of the Splint
2 Trade Dress;

- 3 c. Making any unauthorized use of the Splint Trade Dress in such a way
4 as to cause confusion, mistake or deception as to the affiliation,
5 connection or association of the Defendant with Plaintiff or as to the
6 origin, sponsorship or approval of Defendant's products; and
7 d. Using any false designation of origin or false description or
8 misrepresentation, or performing any other act which is likely to
9 mislead the trade or public, or individual members thereof, into
10 believing that the Defendant's splint products, or the containers,
11 packaging or labeling for those products, which did not originate
12 with Plaintiff, are associated or connected with Plaintiff.

13 4. Defendant E.M. Adams, Inc. and its officers, directors, employees,
14 agents, licensees, successors and assigns and all others acting in concert and
15 participating with defendant are enjoined from challenging the validity and/or the
16 enforceability, either in the courts or in the U.S. Patent Office of the '263 Patent,
17 nor assist any third party in doing so, except that E.M. Adams may challenge the
18 validity and/or the enforceability, either in the courts or in the U.S. Patent Office, of
19 the '263 Patent if Plaintiff sues E.M. Adams for infringement of the '263 Patent.
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21 5. Defendant E.M. Adams, Inc. and its officers, directors, employees,
22 agents, licensees, successors and assigns and all others acting in concert and
23 participating with defendant are enjoined not to challenge the validity and/or the
24 enforceability of Plaintiff's Splint Trade Dress, nor assist any third party in doing
25 so.

26 6. The parties have entered into a Settlement Agreement providing for the
27 entry of this Consent Judgment.

28 7. The Court shall retain jurisdiction over the parties to enforce the terms of

1 this Consent Judgment and the terms of the Settlement Agreement which is
2 incorporated herein by reference.

3 8. Accordingly, Plaintiff's Complaint is hereby dismissed with prejudice.
4

5 Dated: August, 29, 2008 SHELTON MAK ROSE & ANDERSON PC

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7 By: /s/Jeffrey G. Sheldon
8 Jeffrey G. Sheldon
9 Attorneys for J.T. Posey Company

10 QUARLES BRADY LLP

11
12 Dated: August 29, 2008 By: /s/Deanna Conn
13 Deanna Conn
14 Attorneys for Defendant E.M. Adams, Inc.

15 IT IS SO ORDERED.

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17 Date: September 30, 2008 By: 
18 R. Gary Klausner
19 United States District Judge
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EXHIBIT "1"

E. M. Adams



J.T. Posey