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6 LOS ANGELES  
7 SUPERIOR COURT

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 FOR THE COUNTY OF LOS ANGELES  
10 UNLIMITED CIVIL JURISDICTION  
11

12 **ANTHONY E. HELD, Ph.D., P.E.,**

13 **Plaintiff,**

14 v.

15 LEAP YEAR PUBLISHING, LLC; and  
16 DOES 1 through 150, inclusive,

17 **Defendants.**

CASE NO. BC406523

**[PROPOSED] ORDER FOR JUDGMENT  
PURSUANT TO TERMS OF STIPULATION  
RE: SETTLEMENT**

Dept.: 33  
Judge: Hon. Charles F. Palmer

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22 In the above-entitled action, Plaintiff ANTHONY E. HELD, Ph.D., P.E., and Defendant LEAP  
23 YEAR PUBLISHING, LLC have agreed through their respective counsel that judgment be entered  
24 pursuant to the terms of the Stipulation Re: Settlement entered into by the parties and approved by this  
25 Court on March 3, 2010 and attached hereto as Exhibit A.

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# **Exhibit A**

1 Christopher Martin, State Bar No. 186021  
HIRST & CHANLER LLP  
2 2560 Ninth Street  
Parker Plaza, Suite 214  
3 Berkeley, California 94710  
Telephone: (510) 848-8880  
4 Facsimile: (510) 848-8118

5 Attorneys for Plaintiff  
ANTHONY E. HELD, Ph.D., P.E.

6  
7 Nancy L. Stagg, State Bar No. 157034  
Benjamin J. Morris, State Bar No. 260148  
8 FISH & RICHARDSON P.C.  
12390 El Camino Real  
9 San Diego, CA 92130  
Telephone: (858) 678-5070  
10 Facsimile: (858) 678-5099

11 Attorneys for Defendant  
LEAP YEAR PUBLISHING, LLC

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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES  
UNLIMITED CIVIL JURISDICTION

ANTHONY E. HELD, Ph.D., P.E.,  
Plaintiff,  
v.  
LEAP YEAR PUBLISHING, LLC; and  
DOES 1 through 150, inclusive,  
Defendant.

Case No. BC 406523  
**STIPULATION RE: SETTLEMENT**  
Health & Safety Code § 25249.6 *et seq.*

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**1. INTRODUCTION**

**1.1 Anthony E. Held, Ph.D., P.E., and Leap Year Publishing, LLC**

This Stipulation Re: Settlement (“Stipulation” or “Settlement”) is entered into by and between Anthony E. Held, Ph.D., P.E. (hereinafter “Held”) and Leap Year Publishing, LLC (hereinafter “Leap Year”), with Held and Leap Year collectively referred to as the “Parties.”

**1.2 Plaintiff**

Held is an individual residing in California who seeks to promote awareness of exposures to toxic chemicals and improve human health by reducing or eliminating hazardous substances contained in consumer products.

**1.3 Defendant**

Leap Year employs ten or more persons and is a person in the course of doing business for purposes of Proposition 65.

**1.4 General Allegations**

Held alleges that Leap Year manufactured, distributed, and/or sold in the State of California certain children’s notebooks containing di(2-ethylhexyl)phthalate (commonly referred to as “DEHP”). DEHP is listed pursuant to the Safe Drinking Water and Toxic Enforcement Act of 1986, California Health & Safety Code §§25249.5 *et seq.* (“Proposition 65”), as a chemical known to the State of California to cause birth defects and other reproductive harm. DEHP is referred to herein as the “Listed Chemical.”

**1.5 Product Description**

The products that are covered by this Settlement are defined as children’s notebooks containing di(2-ethylhexyl)phthalate including, but not limited to, *Leap Year Sports Notes (#7 88958 36067 3)*. All such products are referred to hereinafter as the “Products”.

**1.6 Notice of Violation**

On November 7, 2008, Held served Leap Year and various public enforcement agencies with a “60-Day Notice of Violation” (the “Notice”) that provided Leap Year with notice of alleged violations of Health & Safety Code §25249.6 for its alleged failure to warn consumers

1 that the Products that Leap Year sold exposed users in California to the Listed Chemical.

2 **1.7 Complaint**

3 On January 28, 2009, Held, who was and is acting in the interest of the general public in  
4 California, filed a complaint ("Complaint" or "Action") in the Superior Court in and for the  
5 County of Los Angeles against Leap Year, and Does 1 through 150, alleging violations of Health  
6 & Safety Code § 25249.6 based on the alleged exposures to DEHP contained in the Products  
7 manufactured distributed and/or sold by Leap Year.

8 **1.8 No Admission**

9 Leap Year denies the material factual and legal allegations contained in Held's Complaint,  
10 and in its Answer filed March 17, 2009, Leap Year asserted certain affirmative defenses against  
11 the claims alleged by Held. Nothing in this Settlement shall be construed as an admission by  
12 Leap Year of any fact, finding, issue of law, or violation of law, nor shall compliance with this  
13 Settlement constitute or be construed as an admission by Leap Year of any fact, finding,  
14 conclusion, issue of law or violation of law, such being specifically denied by Leap Year.  
15 However, this section shall not diminish or otherwise affect the obligations, responsibilities and  
16 duties of Leap Year under this Settlement

17 **1.9 Consent to Jurisdiction**

18 For purposes of this Settlement only, the parties stipulate that this Court has jurisdiction  
19 over Held and Leap Year as to the allegations contained in the Complaint, that venue is proper in  
20 the County of Los Angeles and that this Court has jurisdiction to enter and enforce the provisions  
21 of this Settlement.

22 **1.10 Effective Date**

23 For purposes of this Settlement, the term "Effective Date" shall mean October 9, 2009.

24 **2. INJUNCTIVE RELIEF:**

25 **2.1 No Further Sale or Distribution of the Products**

26 As of the Effective Date of this Stipulation, Leap Year shall not directly sell or otherwise  
27 distribute the Products in California. Nothing in this Settlement shall be interpreted to relieve  
28

1 Leap Year from any obligation to comply with any pertinent state or federal toxics control  
2 laws (e.g., the federal ban on selling childcare items and certain children's toys containing  
3 more than 1,000 ppm of DEHP).

4 **3. MONETARY PAYMENTS**

5 **3.1 Payments Pursuant to Health & Safety Code § 25249.7(b)**

6 In settlement of all the claims referred to in this Settlement, Leap Year shall pay \$ 5,000  
7 in civil penalties to be apportioned in accordance with California Health & Safety Code §25192,  
8 with 75% of these funds (\$3,750) remitted to the State of California's Office of Environmental  
9 Health Hazard Assessment and the remaining 25% of these funds (\$1,250) remitted to Held as  
10 provided by California Health & Safety Code §25249.12(d). Leap Year shall issue two separate  
11 checks for the penalty payment: (a) one check made payable to Hirst & Chanler LLP in Trust for  
12 the State of California's Office of Environmental Health Hazard Assessment (OEHHA) in the  
13 amount of \$3,750, representing 75% of the total penalty, and (b) one check to Hirst & Chanler  
14 LLP in Trust for Held in the amount of \$1,250, representing 25% of the total penalty. Two  
15 separate 1099s shall be issued for the above payments to OEHHA, P.O. Box 4010, Sacramento,  
16 CA 95814 (EIN: 68-0284486) and to Held whose address and tax identification number shall be  
17 furnished by his counsel to counsel for Leap Year. The payments shall be mailed by first class  
18 U.S. Mail, delivered to the following address and post-marked on or before October 9, 2009:

19 Hirst & Chanler LLP  
20 Attn: Proposition 65 Controller  
21 2560 Ninth Street  
22 Parker Plaza, Suite 214  
23 Berkeley, CA 94710

24 **4. REIMBURSEMENT OF FEES AND COSTS**

25 **4.1 Attorney Fees and Costs**

26 The Parties acknowledge that Held and his counsel offered to resolve this dispute without  
27 reaching terms on the amount of fees and costs to be reimbursed to them. Thereafter, the Parties  
28 reached accord on the amount of attorneys' fees and costs to be paid pursuant to general contract  
principles and under the private attorney general doctrine codified at California Code of Civil

1 Procedure (CCP) §1021.5. Leap Year shall pay Held's counsel \$22,000 for fees and costs  
2 incurred as a result of investigating, bringing this matter to Leap Year's attention, and litigating  
3 and negotiating a settlement in the public interest. Leap Year shall issue a separate 1099 for fees  
4 and costs (EIN: 20-3929984) and shall make the check payable to "Hirst & Chanler LLP." The  
5 payment shall be mailed by first class U.S. Mail, post-marked on or before October 9, 2009 to the  
6 following address:

7 Hirst & Chanler LLP  
8 Attn: Proposition 65 Controller  
9 2560 Ninth Street  
10 Parker Plaza, Suite 214  
11 Berkeley, CA 94710

12 **5. RELEASE OF ALL CLAIMS**

13 **5.1 Release of Leap Year and Downstream Customers or Distributors**

14 In further consideration of the promises and agreements herein contained, and for the  
15 payments to be made pursuant to Sections 3 and 4 above, Held, on behalf of himself, his past and  
16 current agents, representatives, attorneys, successors and/or assignees, hereby waives all rights to  
17 institute or participate in, directly or indirectly, any form of legal action and releases all claims,  
18 including, without limitation, all actions, and causes of action, in law or in equity, suits,  
19 liabilities, demands, obligations, damages, costs, fines, penalties, losses or expenses (including,  
20 but not limited to, investigation fees, expert fees and attorneys' fees) of any nature whatsoever,  
21 whether known or unknown, fixed or contingent (collectively "Claims"), that were brought or  
22 could have been brought against Leap Year and its affiliates, subsidiaries, and their respective  
23 officers, directors, attorneys, representatives, shareholders, agents, employees, insurers, sister and  
24 parent entities and each of Leap Year's downstream distributors, wholesalers, licensors, licensees,  
25 auctioneers, retailers (including, but not limited to, 99 Cents Only Stores), franchisees, dealers,  
26 customers, owners, purchasers, users, parent companies, corporate affiliates, subsidiaries, and  
27 their respective officers, directors, attorneys, representatives, shareholders, agents, employees and  
28 sister and parent entities (collectively "Releasees") that arise under Proposition 65 or any other  
statutory or common law Claims that could have been asserted including such Claims as relate to



1 Leap Year's and each of its Releasees alleged failure to warn about exposures to or identification  
2 of the Listed Chemical contained in the Products.

3 **5.2 Leap Year's Release of Held**

4 Leap Year waives any and all claims against Held, his attorneys and other representatives,  
5 for any and all actions taken or statements made (or those that could have been taken or made) by  
6 Held and his attorneys and other representatives, whether in the course of investigating claims or  
7 otherwise seeking enforcement of Proposition 65 against it in this matter, and/or with respect to  
8 the Products.

9 **5.3 Waiver of California Civil Code §1542**

10 This Settlement is intended as a full and complete release and discharge of the Claims  
11 which the parties may have against each other based on certain acts, conduct or omissions  
12 occurring on or before the Effective date of this Settlement, and any and all damages arising  
13 from, related to or sustained by reason of those Claims, whether the Claims and the damages are  
14 now known or unknown, expected or unexpected, or have already developed or appeared or may  
15 now be unknown but in the future may appear, develop, or become known.

16 Accordingly, the parties each expressly waive all rights under section 1542 of the Civil  
17 Code of the State of California with respect to the specified Claims and the damages arising from,  
18 related to, or sustained by reason of those Claims. The parties understand that section 1542 of the  
19 Civil Code provides as follows:

20 **A general release does not extend to claims which the creditor  
21 does not know or suspect to exist in his favor at the time of  
22 executing the release, which if known by him must have  
materially affected his settlement with the debtor.**

23 The parties hereby declare and represent to each other that they have read and each has  
24 had an opportunity to consult with counsel regarding the meaning and implications of California  
25 Civil code section 1542 and each does hereby waive its protections with respect to the specified  
26 Claims.

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1     **6. COURT APPROVAL**

2             This Settlement is not final until it is approved and entered by the Court and shall be null  
3     and void if, for any reason, it is not approved and entered by the Court within one year after it  
4     has been fully executed by all parties, in which event any monies that have been provided to  
5     Held, or his counsel pursuant to Section 3 and/or Section 4 above, shall be refunded within  
6     fifteen (15) days after receiving written notice from Leap Year that the one-year period has  
7     expired, or that the Settlement has otherwise not been approved or entered by the Court.

8     **7. SEVERABILITY**

9             If, subsequent to the execution of this Settlement, any of the provisions of this Settlement  
10    are held by a court to be unenforceable, the validity of the enforceable provisions remaining shall  
11    not be adversely affected.

12    **8. GOVERNING LAW**

13             The terms of this Settlement shall be governed by the laws of the State of California and  
14    apply within the State of California. In the event that Proposition 65 is repealed or is otherwise  
15    rendered inapplicable by reason of state or federal law generally, or as to the Products, then Leap  
16    Year shall provide written notice to Held of any asserted change in the law, and shall have no  
17    further obligations pursuant to this Settlement with respect to, and to the extent that, the Products  
18    are so affected.

19    **9. NOTICES**

20             Unless specified herein, all correspondence and notices required to be provided pursuant  
21    to this Settlement shall be in writing and personally delivered or sent by: (i) first-class, (registered  
22    or certified mail) return receipt requested; or (ii) overnight courier on any party by the other party  
23    at the following addresses:

24             **To Leap Year:**  
25             Nancy L. Stagg, Esq.  
26             Fish & Richardson, P.C.  
27             12390 El Camino Real.  
28             San Diego, CA 92130

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**To Held:**

Proposition 65 Coordinator  
Hirst & Chanler, LLP  
2560 Ninth Street  
Parker Plaza, Suite 214  
Berkeley, CA 94710-2565

Any party, from time to time, may specify in writing to the other party a change of address to which all notices and other communications shall be sent.

**10. COUNTERPARTS, FACSIMILE SIGNATURES**

This Settlement may be executed in counterparts and by facsimile, each of which shall be deemed an original, and all of which, when taken together, shall constitute one and the same documents.

**11. COMPLIANCE WITH HEALTH & SAFETY CODE § 25249.7(F)**

Held agrees to comply with the reporting form requirements referenced in California Health & Safety Code § 25249.7(f).

**12. ADDITIONAL POST EXECUTION ACTIVITIES**

The parties acknowledge that pursuant to Health & Safety Code §25249.7, a noticed motion is required to obtain judicial approval of this Settlement. In furtherance of obtaining such approval, Held, Leap Year and their respective counsel agree to mutually employ their best efforts to support the entry of this agreement as a Settlement and obtain approval of the Settlement by the Court in a timely manner. For purposes of this paragraph, best efforts shall include, at a minimum, cooperating on the drafting and filing any papers, asserting any oral argument in support of the required motion for judicial approval, and defending any appellate review of the Court's approval. Within 30 days of judicial approval of this Settlement, Held shall execute and file with the Clerk of the Court a form Request for Entry of Dismissal of the entire action.

**13. MODIFICATION**

This Settlement may be modified only: (1) by written agreement of the parties and upon entry of a modified consent judgment by the Court thereon; or (2) upon a successful motion of

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any party and entry of a modified consent judgment by the Court.

**14. AUTHORIZATION**

The undersigned are authorized to execute this Settlement on behalf of their respective parties and have read, understood, and agree to all of the terms and conditions of this Settlement.

**AGREED TO:**

**AGREED TO:**

Date: **APPROVED**  
*By Anthony Held at 8:24 am, Oct 02, 2009*\_\_\_\_\_

Date: \_\_\_\_\_

By: Anthony E Held  
Plaintiff, ANTHONY E. HELD, Ph.D., P.E.

By: \_\_\_\_\_  
Defendant, LEAP YEAR PUBLISHING  
LLC

Approved and Stipulated.

Date: \_\_\_\_\_

HIRST & CHANLER, LLP

\_\_\_\_\_  
Christopher Martin  
Attorneys for Plaintiff Anthony Held

Date: \_\_\_\_\_

FISH & RICHARDSON P.C.

\_\_\_\_\_  
Nancy L. Stagg  
Attorneys for Defendant Leap Year Publishing,  
LLC

1 any party and entry of a modified consent judgment by the Court.

2 **14. AUTHORIZATION**

3 The undersigned are authorized to execute this Settlement on behalf of their respective  
4 parties and have read, understood, and agree to all of the terms and conditions of this Settlement.

5 **AGREED TO:**

**AGREED TO:**

6 Date: \_\_\_\_\_

Date: \_\_\_\_\_

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9 By: \_\_\_\_\_  
Plaintiff, ANTHONY E. HELD, Ph.D., P.E.

By: \_\_\_\_\_  
Defendant, LEAP YEAR PUBLISHING  
LLC

10  
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12 Approved and Stipulated.

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15 Date: 10.2.09

HIRST & CHANLER, LLP



16  
17 Christopher Martin  
18 Attorneys for Plaintiff Anthony Held

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21 Date: \_\_\_\_\_

FISH & RICHARDSON P.C.

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Nancy L. Stagg  
24 Attorneys for Defendant Leap Year Publishing,  
LLC

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**AGREED TO:**

**AGREED TO:**

Date: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Plaintiff, ANTHONY E. HELD, Ph.D., P.E.

By: \_\_\_\_\_  
Defendant, LEAP YEAR PUBLISHING  
LLC

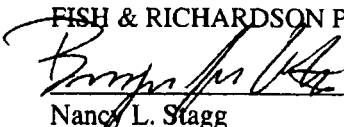
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Date: \_\_\_\_\_

HIRST & CHANLER, LLP

\_\_\_\_\_  
Christopher Martin  
Attorneys for Plaintiff Anthony Held

Date: 10/6/09

FISH & RICHARDSON P.C.  
  
\_\_\_\_\_  
Nancy L. Stagg  
Attorneys for Defendant Leap Year Publishing,  
LLC

1 any party and entry of a modified consent judgment by the Court.

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4 parties and have read, understood, and agree to all of the terms and conditions of this Settlement.

5 **AGREED TO:**

**AGREED TO:**

6 Date: \_\_\_\_\_

Date: 10/6/09

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9 By: \_\_\_\_\_  
Plaintiff, ANTHONY E. HELD, Ph.D., P.E.

By: Ronald Gold partner  
Defendant, LEAP YEAR PUBLISHING  
LLC

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12 Approved and Stipulated.

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15 Date: \_\_\_\_\_

**HIRST & CHANLER, LLP**

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Christopher Martin  
Attorneys for Plaintiff Anthony Held

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21 Date: \_\_\_\_\_

**FISH & RICHARDSON P.C.**

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Nancy L. Stagg  
Attorneys for Defendant Leap Year Publishing,  
24 LLC

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