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Attorneys for Defendants  
AMSCAN INCORPORATED,  
CALIFORNIA AMSCAN  
INCORPORATED and PARTY CITY  
CORPORATION

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SACRAMENTO

ANTHONY E. HELD, Ph.D., P.E.,  
  
Plaintiff,  
  
vs.  
  
AMSCAN INCORPORATED;  
CALIFORNIA AMSCAN  
INCORPORATED; PARTY CITY  
CORPORATION and DOES 1 through 150,  
inclusive,  
  
Defendants.

Case No. 34-2008-00019506

**STIPULATION AND [PROPOSED]  
ORDER RE: CONSENT JUDGMENT**

Health & Safety Code § 25249.6

1 **I. INTRODUCTION**

2 **1.1 Anthony E. Held, Ph.D., P.E., and Amscan, Inc.**

3 This Consent Judgment is entered into by and between Plaintiff Anthony E. Held, Ph.D.,  
4 P.E. ("Dr. Held" or "Plaintiff") and Defendant Amscan, Inc. ("Amscan" or "Defendant"), with  
5 Plaintiff and Defendant collectively referred to as the "parties."

6 **1.2 Plaintiff**

7 Dr. Held is an individual residing in the State of California who seeks to promote  
8 awareness of exposure to toxic chemicals and improve human health by reducing or eliminating  
9 hazardous substances contained in consumer products.

10 **1.3 Defendant**

11 Amscan employs 10 or more persons and thus is a person in the course of doing business  
12 for purposes of the Safe Drinking Water and Toxic Enforcement Act of 1986, California Health  
13 & Safety Code § 25249.6 *et seq.* (Proposition 65).

14 **1.4 General Allegations**

15 Dr. Held alleges that Amscan has manufactured, distributed and/or sold certain inflatable  
16 vinyl toys or other children's items, including but not limited to a fiesta rubber duck, soft baseball  
17 ball, inflatable crab and squirter gicleur containing di(2-ethylhexyl)phthalate ("DEHP") without  
18 the requisite Proposition 65 warnings. DEHP is a phthalate that is listed as a reproductive and  
19 developmental toxicant pursuant to Proposition 65 and is referred to hereinafter as the "Listed  
20 Chemical."

21 **1.5 Product Description**

22 The products covered by this consent judgment are inflatable vinyl toys, soft sport balls,  
23 bathroom toys, handheld toys, and other children's items including but not limited to rubber duck  
24 item no. 399508, soft baseball item no. 391834, inflatable crab item no. 391726, and squirter  
25 gicleur item no. 391763. "Toys" or "children's items" means all products that are reasonably  
26 subject to use by children and not specifically labeled with a warning that the product should not  
27 be used by children. All toys and children's items containing the Listed Chemical and  
28 manufactured and/or sold or distributed by Amscan are referred to hereinafter as the "Covered

1 Products."

2 **1.6 Notices of Violation**

3 On April 22, 2008, July 10, 2008 and August 14, 2008, Dr. Held served Amscan and  
4 various public enforcement agencies with four documents entitled "60-Day Notice of Violation"  
5 (the "Notices") that provided Amscan and public enforcers with notice of alleged violations of  
6 Health & Safety Code § 25249.6 for failing to warn consumers that the Covered Products that  
7 Amscan manufactured, distributed and/or sold exposed users in California to DEHP. To the best  
8 of the parties' knowledge, no public enforcer has diligently prosecuted the allegations set forth in  
9 the Notices.

10 **1.7 Complaint**

11 On August 15, 2008, Dr. Held, acting in the interest of the general public in California,  
12 filed a complaint ("Complaint" or "Action") in the Superior Court in and for the County of  
13 Sacramento against Amscan, California Amscan Incorporated, Party City Corporation and Does I  
14 through 150, alleging violations of Health & Safety Code § 25249.6 based on the alleged  
15 exposures to DEHP contained in Covered Products manufactured, distributed and/or sold by  
16 Amscan.

17 **1.8 No Admission**

18 Amscan denies the material, factual and legal allegations contained in Dr. Held's Notices  
19 and Complaint and maintains that all Covered Products it has manufactured, distributed and/or  
20 sold in California have been and are in compliance with all applicable laws. Nothing in this  
21 Consent Judgment shall be construed as an admission by Amscan of any fact, finding, issue of  
22 law, or violation of law, nor shall compliance with this Consent Judgment constitute or be  
23 construed as an admission by Amscan of any fact, finding, conclusion, issue of law, or violation  
24 of law, such being specifically denied by Amscan. However, this Section shall not diminish or  
25 otherwise affect Amscan's obligations, responsibilities, and duties under this Consent Judgment.

26 **1.9 Consent to Jurisdiction**

27 For purposes of this Consent Judgment only, the parties stipulate that this Court has  
28 jurisdiction over Amscan as to the allegations contained in the Complaint, that venue is proper in

1 the County of Sacramento and that this Court has jurisdiction to enter and enforce the provisions  
2 of this Consent Judgment.

3 **1.10 Effective Date**

4 For purposes of this Consent Judgment, the term "Effective Date" shall mean October 31,  
5 2008.

6 **II. INJUNCTIVE RELIEF: WARNINGS AND REFORMULATION**

7 **2.1 Product Warnings**

8 Commencing on the Effective Date, Amscan shall not sell, ship, or offer to be shipped for  
9 sale in California any Covered Products unless such Products are sold or shipped with one of the  
10 clear and reasonable warnings set forth in subsections 2.1(a) and (b), are otherwise exempt  
11 pursuant to Section 2.2, or comply with the reformulation standards set forth in Section 2.3.

12 Each warning shall be prominently placed with such conspicuousness as compared with  
13 other words, statements, designs, or devices as to render it likely to be read and understood by an  
14 ordinary individual under customary conditions before purchase or use. Each warning shall be  
15 provided in a manner such that the consumer or user understands to which specific Covered  
16 Product the warning applies, so as to minimize if not eliminate the chance that an overwarning  
17 situation will arise.

18 **(a) Retail Store Sales.**

19 **(i) Product Labeling.** Amscan may perform its warning obligation by  
20 ensuring that a warning is affixed to the packaging, labeling, or directly on each Covered Product  
21 sold in retail outlets in California by Amscan or its agents, that states:

22 **WARNING:** This product contains DEHP, a phthalate  
23 chemical known to the State of California  
24 to cause birth defects and other  
reproductive harm.

25 **(ii) Point-of-Sale Warnings.** Amscan may perform its warning  
26 obligations by providing warning signs in the form below to its customers in California with  
27 instructions to post the warnings in close proximity to the point of display of the Covered  
28 Products.

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**WARNING:** This product contains DEHP, a phthalate chemical known to the State of California to cause birth defects and other reproductive harm.

Where more than one Covered Product is sold in proximity to other like items or to those that do not require a warning (e.g., Reformulated Products as defined in Section 2.3), the following statement must be used:<sup>1</sup>

**WARNING:** The following products contain DEHP, a phthalate chemical known to the State of California to cause birth defects and other reproductive harm.

*[list products for which warning is required]*

**(b) Mail Order Catalog and Internet Sales.** In the event that Amscan sells Covered Products via mail order catalog or internet to customers located in California after the Effective Date that are not Reformulated Products, Amscan shall satisfy its warning obligations for Covered Products sold via mail order catalog or the Internet to California residents by providing a warning: (i) in the mail order catalog, or (ii) on the website. Warnings given in the mail order catalog or on the website shall identify the specific Covered Product to which the warning applies as further specified in Sections 2.1(b)(i) and (ii).

**(i) Mail Order Catalog Warning.** Any warning provided in a mail order catalog must be in the same type size or larger than the Covered Product description text within the catalog. The following warning shall be provided on the same page and in the same location as the display and/or description of the Covered Product:

**WARNING:** This product contains DEHP, a phthalate chemical known to the State of California to cause birth defects and other reproductive harm.

Where it is impracticable to provide the warning on the same page and in the same

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<sup>1</sup>For purposes of the consent judgment, "sold in proximity" shall mean that the Covered Product and another product are offered for sale close enough to each other that the consumer, under customary conditions, could not reasonably determine which of the two products is subject to the warning sign.

1 location as the display and/or description of the Covered Product, Amscan may utilize a  
2 designated symbol to cross reference the applicable warning and shall define the term “designated  
3 symbol” with the following language on the inside of the front cover of the catalog or on the  
4 same page as any order form for the Covered Product(s):

5                   **WARNING:** Certain products identified with this  
6                   symbol ▼ and offered for sale in this  
7                   catalog contain DEHP, a phthalate  
8                   chemical known to the State of California  
9                   to cause birth defects and other  
10                  reproductive harm.

11                  The designated symbol must appear on the same page and in close proximity to the  
12                  display and/or description of the Covered Product. On each page where the designated symbol  
13                  appears, Amscan must provide a header or footer directing the consumer to the warning language  
14                  and definition of the designated symbol.

15                  If Amscan elects to provide warnings in the mail order catalog, then the warnings must be  
16                  included in all catalogs offering to sell one or more Products printed after October 31, 2008.

17                  (ii)     **Internet Website Warning.** A warning may be given in  
18                  conjunction with the sale of the Covered Product via the Internet, provided it appears either: (a)  
19                  on the same web page on which the Covered Product is displayed; (b) on the same web page as  
20                  the order form for the Covered Product; (c) on the same page as the price for any Covered  
21                  Product; or (d) on one or more web pages displayed to a purchaser during the checkout process.  
22                  The following warning statement shall be used and shall appear in any of the above instances  
23                  adjacent to or immediately following the display, description, or price of the Covered Product for  
24                  which it is given in the same type size or larger than the Covered Product description text:

25                           **WARNING:** This product contains DEHP, a phthalate  
26                           chemical known to the State of California to  
27                           cause birth defects and other reproductive harm.

28                  Alternatively, the designated symbol may appear adjacent to or immediately following the  
29                  display, description, or price of the Covered Product for which a warning is being given, provided  
30                  that the following warning statement also appears elsewhere on the same web page, as follows:

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**WARNING:** Products identified on this page with the following symbol contain DEHP, a phthalate chemical known to the State of California to cause birth defects and other reproductive harm: ▼.

**2.2 Exceptions To Warning Requirements**

The warning requirements set forth in Section 2.1 shall not apply to:

- (i) Any Covered Products shipped to Amscan’s customers in California prior to October 31, 2008; or
- (ii) Reformulated Products (as defined in Section 2.3 below).

**2.3 Reformulation Standards**

Reformulated Products are defined as those Covered Products containing less than or equal to 1,000 parts per million (“ppm”) of DEHP. The warnings required pursuant to Section 2.1 above shall not be required for Reformulated Products.

Amscan shall use Environmental Protection Agency (“EPA”) testing methodologies 3580A and 8270C, or other comparable methodologies accepted by one or more federal and/or state agencies, to determine whether the respective levels have been exceeded in its Covered Products.

**2.4 Reformulation Commitment**

Amscan hereby commits that one hundred percent (100%) of the Covered Products that it ships for sale in California after October 31, 2008, shall qualify as Reformulated Products or shall otherwise be exempt from the warning requirements of Section 2.1. Amscan represents that in direct response to Plaintiff’s 60 day notices it restricted its sales of noticed items to ensure that they were not shipped to California and communicated with Party City to request that Party City remove noticed items from its California stores and stop selling any such items in California.

**III. MONETARY PAYMENTS**

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

In settlement of all claims related to the Covered Products and Listed Chemical referred to in the Complaint, and this Consent Judgment pursuant to Health & Safety Code § 25249.7(b),

1 Amscan, on behalf of itself and those in its chain of distribution, including Party City  
2 Corporation, shall pay \$18,000 in civil penalties.

3 Civil penalties are to be apportioned in accordance with California Health & Safety Code  
4 § 25192, with 75% of these funds remitted to the State of California's Office of Environmental  
5 Health Hazard Assessment ("OEHHA") and the remaining 25% of the penalty remitted to  
6 Anthony Held as provided by California Health & Safety Code §25249.12(d). Amscan shall  
7 issue two separate checks for the penalty payment: (a) one check made payable to "Hirst &  
8 Chanler LLP in Trust for OEHHA" in the amount of \$13,500, representing 75% of the total  
9 penalty; and (b) one check to "Hirst & Chanler LLP in Trust for Anthony Held" in the amount of  
10 \$4,500, representing 25% of the total penalty. Two separate 1099s shall be issued for the above-  
11 payments: (a) OEHHA, P.O. Box 4010, Sacramento, CA 95814 (EIN: 68-0284486); and (b)  
12 Anthony Held, whose information shall be provided five calendar days before the payment is due.

13 Payment shall be delivered to Dr. Held's counsel on or before November 14, 2008, at the  
14 following address:

15 Hirst & Chanler LLP  
16 Attn: Proposition 65 Coordinator  
17 Capitol Mall Complex  
18 455 Capitol Mall, Suite 605  
19 Sacramento, CA 95814

#### 18 **IV. REIMBURSEMENT OF FEES AND COSTS**

##### 19 **4.1 Attorney Fees and Costs**

20 The Parties acknowledge that Dr. Held and his counsel offered to resolve this dispute  
21 without reaching terms on the amount of fees and costs to be reimbursed to them, thereby leaving  
22 this fee issue to be resolved after the material terms of the agreement had been settled. Amscan  
23 then expressed a desire to resolve the fee and cost issue shortly after the other settlement terms  
24 had been finalized. The Parties then attempted to (and did) reach an accord on the compensation  
25 due to Dr. Held and his counsel under general contract principles and the private attorney general  
26 doctrine codified at California Code of Civil Procedure (C.C.P.) § 1021.5, for all work performed  
27 through the mutual execution of this agreement. Amscan, on behalf of itself and those in its  
28 chain of distribution, including Party City Corporation, shall reimburse Dr. Held and his counsel



1 a total of \$53,000 for fees and costs incurred as a result of investigating, bringing this matter to  
2 Amscan's attention, and litigating and negotiating a settlement in the public interest. Amscan  
3 shall issue a separate 1099 for fees and costs (EIN: 20-3929984) and shall make the check  
4 payable to "Hirst & Chanler LLP" and shall be delivered on or before November 14, 2008.

5 Hirst & Chanler LLP  
6 Attn: Proposition 65 Coordinator  
7 Capitol Mall Complex  
8 455 Capitol Mall, Suite 605  
9 Sacramento, CA 95814

8 **4.2 Additional Attorney Fees and Costs in Seeking Judicial Approval**

9 Pursuant to C.C.P. §§ 1021 and 1021.5, the Parties agree that Amscan, on behalf of itself  
10 and its chain of distribution, including Party City Corporation, will reimburse Dr. Held and his  
11 counsel for their reasonable fees and costs incurred in seeking judicial approval of this settlement  
12 agreement in the trial court and performing other necessary tasks after the execution of the  
13 agreement, in an amount not to exceed \$8,500. Such additional fees and costs, exclusive of fees  
14 and costs that may be incurred in the event of an appeal, include but are not limited to, drafting  
15 and filing of the motion to approve papers, fulfilling the reporting requirements referenced in  
16 Health & Safety Code §25249.7(f), responding to any third party objections, filing notice of entry  
17 of judgment, corresponding with opposing counsel and appearing before the Court related to the  
18 approval process.

19 Reimbursement of such additional fees and costs shall be due within ten days after receipt  
20 of a billing statement from Dr. Held ("Additional Fee Claim"). Payment of the Additional Fee  
21 Claim shall be made to "Hirst & Chanler LLP," and the payment shall be delivered at the  
22 following address:

23 Hirst & Chanler LLP  
24 Attn: Proposition 65 Coordinator  
25 Capitol Mall Complex  
26 455 Capitol Mall, Suite 605  
27 Sacramento, CA 95814

27 Amscan has the right to object to such reimbursement and may submit the resolution of  
28 this issue to the American Arbitration Association (AAA) in Northern California to determine the

1 reasonableness of the additional fees and costs sought, provided that such notice of objection or  
2 decision to arbitrate is received by Dr. Held by the end of the ten calendar days. If an arbitration  
3 notice is not filed with AAA in a timely manner, Dr. Held may file a motion with the Court  
4 pursuant to both C.C.P. § 1021.5 and this settlement agreement to recover additional attorney fees  
5 and costs incurred as set forth in this paragraph. In the event Amscan submits the matter to  
6 arbitration, Dr. Held may seek, pursuant to C.C.P. §1021.5, reasonable attorney fees and costs  
7 incurred for the arbitration.

8 **V. CLAIMS COVERED AND RELEASE**

9 **5.1 Dr. Held's Release of Amscan, and its Chain of Distribution**

10 In further consideration of the promises and agreements herein contained, the injunctive  
11 relief commitments set forth in Section 2, and for the payments to be made pursuant to Sections 3  
12 and 4, Dr. Held on behalf of himself, his past and current agents, representatives, attorneys,  
13 successors, and/or assignees, and the general public, hereby waives with respect to Covered  
14 Products all rights to institute or participate in, directly or indirectly, any form of legal action and  
15 releases all claims, including, without limitation, all actions, and causes of action, in law or in  
16 equity, suits, liabilities, demands, obligations, damages, costs, fines, penalties, losses, or expenses  
17 (including, but not limited to, investigation fees, expert fees, and attorneys' fees) of any nature  
18 whatsoever, whether known or unknown, fixed or contingent (collectively "claims"), against  
19 Amscan and each of its wholesalers, licensors, licensees, import partners, auctioneers, retailers  
20 (including, without limitation, Party City Corporation and any other retailer in its chain of  
21 distribution in California), franchisees, dealers, customers, owners, purchasers, users, parent  
22 companies, corporate affiliates, subsidiaries, and their respective officers, directors, attorneys,  
23 representatives, shareholders, agents, and employees, and sister and parent entities (collectively  
24 "Releasees") that arise under Proposition 65 or any other statutory or common law claims that  
25 could have been asserted in the public interest, as such claims relate to the Releasees' alleged  
26 failure to warn about exposures to the Listed Chemical contained in children's items and toys  
27 specifically children's soft sport balls and children's vinyl bathroom toys such as rubber ducks,  
28 fish squirters and inflatable crabs, and Amscan's compliance with this Consent Judgment shall

1 constitute compliance with Proposition 65 for Amscan and its Releasees with respect to the  
2 Listed Chemical in such items after the Effective Date. Pursuant to this release and the  
3 consideration therefore, Plaintiff shall execute and cause to be filed a Request for Dismissal of  
4 Party City Corporation from the captioned action without prejudice as to the allegations involving  
5 the Covered Products manufactured, distributed, or sold by Amscan, as alleged in the Complaint,  
6 within 10 days after this Consent Judgment is approved by the Court pursuant to section VI  
7 below.

8 Dr. Held also, in his individual capacity only and *not* in his representative capacity,  
9 provides a general release herein which shall be effective as a full and final accord and  
10 satisfaction, as a bar to all actions, causes of action, obligations, costs, expenses, attorneys' fees,  
11 damages, losses, claims, liabilities and demands of Dr. Held of any nature, character or kind,  
12 known or unknown, suspected or unsuspected, arising out of the subject matter of the Action. Dr.  
13 Held acknowledges that he is familiar with Section 1542 of the California Civil Code, which  
14 provides as follows:

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

18 Dr. Held, in his individual capacity only and *not* in his representative capacity, expressly  
19 waives and relinquishes any and all rights and benefits which he may have under, or which may  
20 be conferred on him by the provisions of Section 1542 of the California Civil Code as well as  
21 under any other state or federal statute or common law principle of similar effect, to the fullest  
22 extent that he may lawfully waive such rights or benefits pertaining to the released matters. In  
23 furtherance of such intention, the release hereby given shall be and remain in effect as a full and  
24 complete release notwithstanding the discovery or existence of any such additional or different  
25 claims or facts arising out of the released matters.

26 The parties further understand and agree that this release shall not extend upstream to any  
27 entities that manufactured the Covered Products or any component parts thereof, or any  
28 distributors or suppliers who sold the Covered Products or any component parts thereof to

1 Amscan.

2 **5.2 Amscan's Release of Dr. Held**

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

8 **VI. COURT APPROVAL**

9 This Consent Judgment is not effective until it is approved and entered by the Court and  
10 shall be null and void if, for any reason, it is not approved and entered by the Court within nine  
11 months after it has been fully executed by all parties. In the event this consent judgment is (a)  
12 not entered by this Court within nine months (or thereafter) for any reason whatsoever, or (b) is  
13 entered by the Court and subsequently overturned by any appellate court, any monies that have  
14 been provided to Dr. Held, or his counsel pursuant to Section 3 and/or Section 4 above, together  
15 with interest at the prevailing federal rate accruing from the date of payment by Amscan, shall  
16 be refunded within fifteen (15) days after receiving written demand from Amscan for return of  
17 such funds.

18 **VII. SEVERABILITY**

19 If, subsequent to the execution of this Consent Judgment, any of the provisions of this  
20 Consent Judgment are held by a court to be unenforceable, the validity of the enforceable  
21 provisions remaining shall not be adversely affected.

22 **VIII. GOVERNING LAW**

23 The terms of this Consent Judgment shall be governed by the laws of the State of  
24 California. In the event that Proposition 65 is repealed, preempted, or is otherwise rendered  
25 inapplicable by reason of law generally, or as to the Listed Chemical and/or the Covered  
26 Products, then Amscan shall have no further obligations pursuant to this Consent Judgment with  
27 respect to, and to the extent that, the Covered Products are so affected.

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1 **IX. NOTICES**

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

6 To Amscan and Party City:

7 Joseph Zepf, Esq.  
8 Amscan, Inc.  
9 80 Grasslands Road  
Elmsford, NY 10523

10 With a copy to:

11 James Robert Maxwell, Esq.  
12 ROGERS JOSEPH O'DONNELL  
13 311 California St., 10th Floor  
San Francisco, CA 94104

14 To Dr. Held:

15 HIRST & CHANLER LLP  
16 Attn: Proposition 65 Coordinator  
17 2560 Ninth Street, Suite 214  
Berkeley, CA 94710

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

20 **X. COUNTERPARTS, FACSIMILE SIGNATURES**

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

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

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

27 **XII. ADDITIONAL POST EXECUTION ACTIVITIES**

28 The parties acknowledge that pursuant to Health & Safety Code §25249.7, a noticed

1 motion is required to obtain judicial approval of this Consent Judgment. In furtherance of  
2 obtaining such approval, Dr. Held, Amscan and their respective counsel agree to mutually  
3 employ their best efforts to support the entry of this agreement as a Consent Judgment and obtain  
4 approval of the Consent Judgment by the Court in a timely manner. For purposes of this  
5 paragraph, best efforts shall include, at a minimum, cooperating on the drafting and filing any  
6 papers, asserting any oral argument in support of the required motion for judicial approval, and  
7 defending any appellate review of the Court's approval.

8 **XIII. MODIFICATION**

9 This Consent Judgment may be modified only: (1) by written agreement of the parties; or  
10 (2) upon a successful motion of any party and entry of a modified Consent Judgment by the  
11 Court. Dr. Held shall be entitled to seek his reasonable fees and costs incurred in the  
12 modification process under C.C.P. §1021.5 if Amscan brings a motion to modify the terms of this  
13 Consent Judgment.

14 **XIV. AUTHORIZATION**

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

18 AGREED TO:

AGREED TO:

19 Date: 

<b>APPROVED</b> By Anthony E Held at 9:26 am, 10/29/08
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Date: \_\_\_\_\_

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

By: \_\_\_\_\_  
Defendant AMSCAN, INC.

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1 motion is required to obtain judicial approval of this Consent Judgment. In furtherance of  
2 obtaining such approval, Dr. Held, Amscan and their respective counsel agree to mutually  
3 employ their best efforts to support the entry of this agreement as a Consent Judgment and obtain  
4 approval of the Consent Judgment by the Court in a timely manner. For purposes of this  
5 paragraph, best efforts shall include, at a minimum, cooperating on the drafting and filing any  
6 papers, asserting any oral argument in support of the required motion for judicial approval, and  
7 defending any appellate review of the Court's approval.

8 **XIII. MODIFICATION**

9 This Consent Judgment may be modified only: (1) by written agreement of the parties; or  
10 (2) upon a successful motion of any party and entry of a modified Consent Judgment by the  
11 Court. Dr. Held shall be entitled to seek his reasonable fees and costs incurred in the  
12 modification process under C.C.P. §1021.5 if Amscan brings a motion to modify the terms of this  
13 Consent Judgment.

14 **XIV. AUTHORIZATION**

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


18 AGREED TO:

AGREED TO:

19 Date: \_\_\_\_\_  
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Date: 10/30/08

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

By:   
Defendant AMSCAN, INC.

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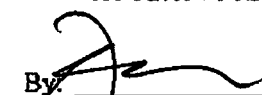
Date: October 29, 2008

Date: 10/31/08

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By:   
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AMSCAN, INC.

IT IS SO ORDERED.

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

\_\_\_\_\_  
JUDGE OF THE SUPERIOR COURT