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18 Attorneys for Defendant
19 THE BEISTLE COMPANY

20 SUPERIOR COURT OF THE STATE OF CALIFORNIA
21 COUNTY OF SACRAMENTO

22 ANTHONY HELD, Ph.D., P.E.,

23 Plaintiff,

24 v.

25 THE BEISTLE COMPANY; *et al.*

26 Defendants.

Case No. 34-2009-00031906

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

Complaint filed: January 13, 2009

1 **1. INTRODUCTION**

2 **1.1 Anthony E. Held, Ph.D., P.E., and The Beistle Company**

3 This Stipulation and Proposed Consent Judgment (“Consent Judgment”) is entered into by
4 and between plaintiff Anthony E. Held, Ph.D., P.E. (“Dr. Held” or “Plaintiff”) and defendant The
5 Beistle Company (“Beistle” or “Defendant”), with Plaintiff Held and Beistle collectively referred to
6 herein as the “Parties” and individually as a “Party.”

7 **1.2 Plaintiff Dr. Anthony Held**

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

11 **1.3 Defendant**

12 Beistle employs ten or more persons and is a person in the course of doing business for
13 purposes of the Safe Drinking Water and Toxic Enforcement Act of 1986, California Health &
14 Safety Code § 25249.5 *et seq.* (“Proposition 65”).

15 **1.4 General Allegations**

16 Dr. Held alleges that Beistle has manufactured, distributed and/or sold inflatable soft vinyl
17 balls, party hats, and duck bead necklaces containing di(2-ethylhexyl)phthalate (hereinafter
18 “DEHP”) in the State of California without required Proposition 65 warnings. DEHP is listed
19 pursuant to Proposition 65, and is known to cause cancer as well as birth defects and other
20 reproductive harm.

21 **1.5 Product Description**

22 The products that are covered by this Consent Judgment are defined as follows: 1) inflatable
23 soft vinyl balls containing DEHP, such as the *Kiss My Class Goodbye Beach Ball* (#0 34689 50002
24 5); 2) party hats containing DEHP, such as the *Santa Chimney Hat* (#0 34689 20738 2); and 3) duck
25 bead necklaces containing DEHP, such as the *Patriotic Duck Bead Necklace* (No. 0 34689 50422
26 1). All such products containing DEHP are referred to hereinafter as the “Products.”

1 **1.6 Notices of Violation**

2 Dr. Held asserts that on October 10, 2008, he served Beistle and the Office of the California
3 Attorney General of the State of California, all California counties' District Attorneys and all City
4 Attorneys of California cities with populations exceeding 750,000, (collectively, "Public
5 Enforcers") with a document entitled "60-Day Notice of Violation" (the "Original Notice") that
6 provided Beistle and Public Enforcers with notice of alleged violations of Proposition 65 for failing
7 to warn consumers that inflatable soft vinyl balls containing DEHP that Beistle sold allegedly
8 exposed users in California to DEHP. To the best of Parties' knowledge, no Public Enforcer has
9 diligently prosecuted any of the allegations set forth in the Notice.

10 Dr. Held asserts that on February 24, 2009, he served Beistle and all Public Enforcers with a
11 document entitled "60-Day Notice of Violation" ("Second Notice") that provided Beistle and Public
12 Enforcers with notice alleged violations of Proposition 65 for failing to warn consumers that party
13 hats containing DEHP that Beistle sold allegedly exposed users in California to DEHP.

14 Dr. Held asserts that on April 2, 2009, he served Beistle and all Public Enforcers with a
15 document entitled "60-Day Notice of Violation" ("Third Notice") that provided Beistle and Public
16 Enforcers with notice alleged violations of Proposition 65 for failing to warn consumers that duck
17 beads necklaces containing DEHP that Beistle sold allegedly exposed users in California to DEHP.

18 The Second Notice and Third Notice are collectively referred to as the "Supplemental
19 Notices." The Original and Supplemental Notices are collectively referred to as the "Notices."

20 **1.7 Complaint**

21 On January 13, 2009, Dr. Held, who was and is acting in the interest of the general public in
22 California, filed a complaint ("Complaint" or "Action") in the Superior Court in and for the County
23 of Sacramento against Beistle and Does 1 through 150, alleging violations of Proposition 65 based
24 on the allegations in the Original Notice. The Complaint shall be deemed amended by this Consent
25 Judgment to include the allegations set forth in the Supplemental Notices on the seventy-first (71st)
26 day following the service of each of the Supplemental Notices on Beistle and all required Public
27 Enforcers if no authorized Public Enforcer has, before that date, filed a Proposition 65 enforcement
28 action based on the allegations in the Supplemental Notices.

1 **1.8 No Admission**

2 Beistle denies that any Products that it has sold and distributed in California do not comply
3 with Proposition 65 or any other law. Nothing in this Consent Judgment shall be construed as an
4 admission by Beistle of any fact, finding, issue of law, or violation of law, nor shall compliance
5 with this Consent Judgment constitute or be construed as an admission by Beistle of any fact,
6 finding, conclusion, issue of law, or violation of law, such being specifically denied by Beistle. In
7 order to avoid the costs and expenses of litigation and without admitting liability or wrongdoing,
8 Beistle has elected to resolve this matter by settlement and on the terms set forth herein. However,
9 this section shall not diminish or otherwise affect Beistle’s obligations, responsibilities, and duties
10 under this Consent Judgment.

11 **1.9 Consent to Jurisdiction**

12 For purposes of this Consent Judgment only, the Parties stipulate that this Court has
13 jurisdiction over Beistle as to the allegations contained in the Complaint, that venue is proper in the
14 County of Sacramento and this Court has jurisdiction to enter and enforce this Consent Judgment as
15 a full and final binding resolution of all claims which were or could have been raised in the
16 Complaint against Beistle based on the facts alleged therein and in the Notice.

17 **1.10 Effective Date**

18 For purposes of this Consent Judgment, the term “Effective Date” shall mean May 7, 2009.

19 **2. INJUNCTIVE RELIEF: WARNINGS AND REFORMULATION**

20 **2.1 Reformulation**

21 Except as provided in Section 2.2, beginning on the Effective Date, Beistle shall not sell,
22 ship, or offer to be shipped, any Products for sale in California, containing DEHP unless such
23 Products contain less than 1,000 (one thousand) parts per million (“ppm”) of DEHP when analyzed
24 pursuant to: Environmental Protection Agency (“EPA”) testing methodologies 3580A and 8270C,
25 or other comparable methodologies recognized and accepted by one or more federal and/or state
26 agencies, including the Consumer Product Safety Commission.

1 **2.2 Interim Warnings**

2 The Parties acknowledge that, in response to allegations in the Notices, Beistle implemented
3 a warning program on or around the dates that the Notices were issued so as to ensure that its
4 existing inventory of Products were shipped with the Proposition 65 warning set out in 27 Cal. Code
5 of Regs. § 25603.2. The Parties additionally acknowledge that Beistle committed that any new
6 orders of Products that Beistle purchased after March 2009 would meet the 1000 ppm DEHP
7 standard set forth in Section 2.1.

8 The warning language that Beistle utilized reads as follows:

9 WARNING: This product contains a chemical known to
10 the State of California to cause cancer, and
 birth defects or other reproductive harm

11 Beistle may continue to use this warning for alleged exposures to DEHP until its current supply of
12 Products has been exhausted. At that point, Beistle shall comply with the reformulation standards
13 as set forth in Section 2.1.

14 Any Products that have been distributed, shipped, or sold, or that are otherwise in the stream
15 of commerce, prior to the Effective Date, shall be released from any claims that were brought or
16 that could be brought by Dr. Held in the Complaint, as though they were Claims within the meaning
17 of Section 5.1, below. As a result, the obligations of this Section 2 do not apply to such Products.

18 **3. MONETARY PAYMENTS**

19 In full and final settlement of Plaintiff's claims, the total monetary settlement payments to
20 be paid by Beistle are set forth in Sections 3 and 4.

21 **3.1 Payments Pursuant to Health & Safety Code § 25249.7(b)**

22 Civil penalties are to be apportioned in accordance with California Health & Safety Code
23 § 25192, with 75% of these funds remitted to the State of California's Office of Environmental
24 Health Hazard Assessment ("OEHHA") and the remaining 25% of the penalty remitted to Anthony
25 Held as provided by California Health & Safety Code § 25249.12(d).

26 Pursuant to Health & Safety Code § 25249.7(b), Beistle shall pay civil penalties, as set forth
27 below:

1 Beistle shall issue two separate checks for the penalty payment: (a) one check made payable
2 to “Hirst & Chanler LLP in Trust For OEHHA” in the amount of Three Thousand Dollars (\$3,000)
3 representing 75% of the total penalty; and (b) one check to “Hirst & Chanler LLP in Trust for
4 Anthony Held” in the amount of One Thousand Dollars (\$1,000) representing 25% of the total
5 penalty. Two separate 1099s shall be issued for the above payments: (a) OEHHA, P.O. Box 4010,
6 Sacramento, CA, 95814 (EIN: 68-0284486); and (b) Anthony Held, whose information shall be
7 provided five calendar days before the payment is due. Payment shall be delivered to Dr. Held’s
8 counsel on or before fifteen (15) days after the Effective Date, as follows:

9 Hirst & Chanler LLP
10 Attn: Proposition 65 Coordinator
11 2560 Ninth Street, Suite 214
12 Berkeley, California 94710

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

14 **4.1 Attorney Fees and Costs**

15 The Parties acknowledge that Dr. Held and his counsel offered to resolve this dispute
16 without reaching terms on the amount of fees and costs to be reimbursed to them, thereby leaving
17 this fee issue to be resolved after the material terms of the agreement had been settled. Beistle then
18 expressed a desire to resolve the fee and cost issue shortly after the other settlement terms had been
19 finalized. The Parties then attempted to (and did) reach an accord on the compensation due to Dr.
20 Held and his counsel under general contract principles and the private attorney general doctrine
21 codified at California Code of Civil Procedure (CCP) § 1021.5, for all work performed through the
22 mutual execution of this agreement. The reimbursement of attorneys’ fees and costs under Section
23 4.1 shall be paid, as follows:

24 Beistle shall reimburse Dr. Held and his counsel the total of Thirty-One Thousand Five
25 Hundred Dollars (\$31,500) for fees and costs incurred as a result of investigating, bringing this
26 matter to Beistle’s attention, and litigating and negotiating a settlement in the public interest.
27 Beistle shall issue a separate 1099 for fees and costs (EIN: 20-3929984) and shall make the check
28 payable to “Hirst & Chanler LLP” and shall be delivered on or before fifteen (15) days after the
Effective Date, as follows:

1 Hirst & Chanler LLP
2 Attn: Proposition 65 Coordinator
3 2560 Ninth Street, Suite 214
4 Berkeley, California 94710

4 **4.2 Attorney Fees and Costs**

5 Pursuant to CCP §§ 1021 and 1021.5, the parties further agree that Beistle will reimburse
6 Dr. Held and his counsel for their reasonable fees and costs incurred in seeking judicial approval of
7 this settlement in the trial court and completing other necessary tasks after the execution of the
8 Consent Judgment, in an amount not to exceed Four Thousand Dollars (\$4,000). Such additional
9 fees and costs, exclusive of fees and costs that may be incurred in the event of an appeal (in which
10 case, Section 6 shall apply) include, but are not limited to, drafting and filing of the motion to
11 approve papers, fulfilling the reporting requirements referenced in Health & Safety Code
12 § 25249.7(f), responding to any third party objections, filing of the notice of entry of the Consent
13 Judgment, corresponding with opposing counsel and appearing before the Court related to the
14 approval process.

15 Reimbursement of such additional fees and costs shall be invoiced on a billing statement
16 from Dr. Held (“Additional Fee Claim”) to counsel for Beistle following the approval and entry of
17 this Consent Judgment by the Court, and payment shall be due within ten (10) calendar days after
18 notice of entry thereof. Payment of the Additional Fee Claim shall be made to “Hirst & Chanler
19 LLP,” and the payment shall be delivered, at the following address:

20 Hirst & Chanler LLP
21 Attn: Proposition 65 Coordinator
22 2560 Ninth Street, Suite 214
23 Berkeley, California 94710

24 Beistle has the right to object to such reimbursement and may submit this issue to the
25 American Arbitration Association (AAA) in Northern California to determine the reasonableness of
26 the additional fees and costs sought, provided that a notice of objection or decision to arbitrate is
27 received by Dr. Held by the end of the ten calendar days following the receipt of the Additional Fee
28 Claim by counsel for Beistle. If the Additional Fee claim is not paid timely or an arbitration notice
is not filed with AAA in a timely manner, Dr. Held may file a motion with the Court pursuant to

1 both CCP § 1021.5 and this Consent Judgment to recover additional attorneys' fees and costs
2 incurred as set forth in this paragraph. In the event that Beistle submits the matter to arbitration,
3 Held may seek, pursuant to Cal. Code Civ. Proc. § 1021.5, reasonable attorneys' fees and costs
4 incurred for the arbitration; provided however, that Beistle reserves all rights to dispute and
5 challenge any such attorneys' fees and costs that may be sought.

6 **5. RELEASE OF ALL CLAIMS**

7 **5.1 Dr. Held's Release of Beistle**

8 In further consideration of the promises and agreements herein contained, and for the
9 payments to be made pursuant to Sections 3 and 4, Dr. Held on behalf of himself, his past and current
10 agents, representatives, attorneys, successors, and/or assignees, and in the interest of the general
11 public only as to the Products, hereby waives all rights to institute or participate in, directly or
12 indirectly, any form of legal action and releases all claims including, without limitation, all actions,
13 and causes of action, in law or in equity, suits, liabilities, demands, obligations, damages, costs, fines,
14 penalties, losses, or expenses (including, but not limited to, investigation fees, expert fees, and
15 attorneys' fees) of any nature whatsoever, whether known or unknown, fixed or contingent
16 (collectively "Claims"), that were brought or could have been brought against Beistle or its parents,
17 subsidiaries or affiliates, and all of their customers, distributors, wholesalers, retailers, licensors,
18 licensees, or any other person in the course of doing business, and the successors and assigns of any
19 of them, who may use, maintain, manufacture, distribute, advertise, market or sell Products, and the
20 officers, directors, managers, employees, members, shareholders, agents, insurers and representatives
21 of each of them (collectively "Defendant Releasees") in this Action. This release is limited to, but is
22 intended to be a full, final, and binding resolution of, those Claims that arise from or relate to facts
23 alleged in the Notices and the Complaint, as against Beistle and Defendant Releasees, concerning
24 Beistle's alleged failure to warn about exposures to DEHP contained in the Products.

25 Dr. Held also, on behalf of himself, his past and current agents, representatives, attorneys,
26 successors, and/or assignees, and in his individual capacity only, provides a general release herein
27 which shall be effective as a full and final accord and satisfaction, as a bar to all Claims of Dr. Held
28 against Beistle and Defendant Releasees of any nature, character or kind, known or unknown,

1 suspected or unsuspected, arising under Proposition 65 or an alleged failure to provide warnings for
2 exposures to any Proposition 65-listed chemical from any products manufactured, distributed or
3 sold by Beistle. Dr. Held acknowledges that he is familiar with Section 1542 of the California Civil
4 Code, which provides as follows:

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

8 Dr. Held, in his individual capacity only, expressly waives and relinquishes any and all
9 rights and benefits which he may have under, or which may be conferred on him by the provisions
10 of Section 1542 of the California Civil Code as well as under any other state or federal statute or
11 common law principle of similar effect, to the fullest extent that he may lawfully waive such rights
12 or benefits pertaining to the released matters. In furtherance of such intention, the release hereby
13 given shall be and remain in effect as a full and complete release notwithstanding the discovery or
14 existence of any such additional or different claims or facts arising out of the released matters.

15 Notwithstanding the foregoing, this release shall not limit or affect Dr. Held's right to
16 enforce the terms of the Consent Judgment.

17 **5.2 Effect of Consent Judgment**

18 Compliance with the terms of this Consent Judgment resolves any issue, now and in the
19 future, concerning compliance by Beistle and Defendant Releasees with the requirements of
20 Proposition 65 with respect to alleged exposure to DEHP from the Products distributed or sold by
21 Beistle.

22 **5.3 Beistle's Release of Dr. Held**

23 Beistle waives any and all Claims against Dr. Held, his attorneys, and other representatives
24 for any and all actions taken or statements made (or those that could have been taken or made) by
25 Dr. Held and his attorneys and other representatives, whether in the course of investigating claims
26 or otherwise seeking enforcement of Proposition 65 against them in this matter, and/or with respect
27 to the Products. Beistle provides a general release herein which shall be effective as a full and final
28 accord and satisfaction, as a bar to all released Claims described herein that it may have against Dr.

1 Held, of any nature, character or kind, known or unknown, and suspected or unsuspected. Beistle
2 acknowledges that it is familiar with Section 1542 of the California Civil Code, which provides as
3 follows:

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

7 Beistle expressly waives and relinquishes any and all rights and benefits which it may have
8 under, or which may be conferred on it by the provisions of Section 1542 of the California Civil
9 Code as well as under any other state or federal statute or common law principle of similar effect, to
10 the fullest extent that it may lawfully waive such rights or benefits pertaining to the released
11 matters. In furtherance of such intention, the release hereby given shall be and remain in effect as a
12 full and complete release notwithstanding the discovery or existence of any such additional or
13 different claims or facts arising out of the released matters.

14 Notwithstanding the foregoing, this release shall not limit or affect Beistle's right to enforce
15 the terms of this Consent Judgment.

16 **6. COURT APPROVAL**

17 Notwithstanding Section 1.10, this Consent Judgment is not effective until it is approved and
18 entered by the Court and shall be null and void if, for any reason, it is not approved and entered by
19 the Court within one year after it has been fully executed by all Parties. If the Court does not
20 approve the Consent Judgment, the Parties shall meet and confer as to (and jointly agree on)
21 whether to modify the language or appeal the ruling. If the Parties do not jointly agree on a course
22 of action to take, then the case shall proceed in its normal course on the trial court's calendar, and
23 any monies that have been provided to Plaintiff, or his counsel, pursuant to Section 3 and/or Section
24 4 above, shall be refunded within thirty (30) days of Beistle providing written notice thereof. In the
25 event that this Consent Judgment is entered by the Court and subsequently overturned by any
26 appellate court, any monies that have been provided to Plaintiff, or his counsel pursuant to Section 3
27 and/or Section 4 above, shall be refunded within fifteen (15) days of the appellate decision
28 becoming final. If the Court's approval is ultimately overturned by an appellate court, the Parties

1 shall meet and confer as to (and jointly agree on) whether to modify the terms of the Consent
2 Judgment. If the Parties do not jointly agree on a course of action to take, then the case shall
3 proceed in its normal course on the trial court's calendar.

4 **7. SEVERABILITY**

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

8 **8. ENTIRE AGREEMENT**

9 This Consent Judgment contains the sole and entire agreement and understanding of the
10 Parties with respect to the entire subject matter hereof, and any and all prior discussions,
11 negotiations, commitments, and understandings related hereto. No representations, oral or
12 otherwise, express or implied, other than those contained herein have been made by any Party
13 hereto. No other agreements not specifically referred to herein, oral or otherwise, shall be deemed
14 to exist or to bind any of the Parties.

15 **9. GOVERNING LAW**

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

22 **10. NOTICES**

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

27 To Beistle:

28 Trenton H. Norris
ARNOLD & PORTER LLP

1 275 Battery Street
2 Suite 2700
3 San Francisco, CA 94111

4 To Dr. Held:

5 Proposition 65 Controller
6 HIRST & CHANLER LLP
7 2560 Ninth Street
8 Parker Plaza, Suite 214
9 Berkeley, CA 94710-2565

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

12 **11. COUNTERPARTS; FACSIMILE SIGNATURES**

13 This Consent Judgment may be executed in counterparts and by facsimile, each of which
14 shall be deemed an original, and all of which, when taken together, shall constitute one and the
15 same document.

16 **12. COMPLIANCE WITH HEALTH & SAFETY CODE § 25249.7(f)**

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

19 **13. ADDITIONAL POST EXECUTION ACTIVITIES**

20 The Parties acknowledge that, pursuant to California Health & Safety Code § 25249.7, a
21 noticed motion is required to obtain judicial approval of this Consent Judgment. This motion shall
22 not be noticed to be heard on a date before the seventy-first (71st) day after the Supplemental
23 Notices have been served on Beistle and all required Public Enforcers (i.e., June 12, 2009). Dr.
24 Held and Beistle agree to mutually employ their best efforts to support the entry of this agreement
25 as a Consent Judgment by the trial court and defend the agreement against any appellate review.
26 Accordingly, Dr. Held agrees to file a motion to approve the Consent Judgment, and Beistle agrees
27 to support it.

28 **14. MODIFICATION AND ENFORCEMENT**

This Consent Judgment 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
any Party and entry of a modified consent judgment by the Court. In the event that, after the

1 Parties' execution of this Consent Judgment: (1) a dispute arises with respect to any provisions of
2 this Consent Judgment; or (2) either Party seeks to enforce the terms of this Consent Judgment, the
3 prevailing Party shall be entitled to reasonable attorneys' fees and costs.

4 **15. EFFECT OF CONSENT JUDGMENT**

5 This Consent Judgment shall apply to, be binding upon, and inure to the benefit of, the
6 Parties and their respective successors and assigns.

7 **16. AUTHORIZATION**

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

11 **AGREED TO:**

AGREED TO:

12 **APPROVED**

13 *By Anthony E Held at 8:28 am, 5/7/09*

14 Date: _____

Date: _____

15 By: _____

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

15 By: _____

Defendant
THE BEISTLE COMPANY

17 **APPROVED AS TO FORM:**

APPROVED AS TO FORM:

18 Date: _____

5/7/09

18 Date: _____

19 HIRST & CHANLER LLP

ARNOLD & PORTER LLP

20 By: _____

Cliff Chanler
Clifford A. Chanler
Attorneys for Plaintiff
ANTHONY E. HELD, Ph.D., P.E.

20 By: _____

Trenton H. Norris
Sarah Esmaili
Attorneys for Defendant
THE BEISTLE COMPANY

24 **IT IS SO ORDERED.**

25 Date: _____

26 _____
JUDGE OF THE SUPERIOR COURT

1 Parties' execution of this Consent Judgment: (1) a dispute arises with respect to any provisions of
2 this Consent Judgment; or (2) either Party seeks to enforce the terms of this Consent Judgment, the
3 prevailing Party shall be entitled to reasonable attorneys' fees and costs.

4 **15. EFFECT OF CONSENT JUDGMENT**

5 This Consent Judgment shall apply to, be binding upon, and inure to the benefit of, the
6 Parties and their respective successors and assigns.

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9 respective parties and have read, understood, and agree to all of the terms and conditions of this
10 Consent Judgment.

11 **AGREED TO:**

AGREED TO:

12 Date: _____

Date: 5/7/2009

13 By: _____

By: 

14 Plaintiff
15 ANTHONY E. HELD, Ph.D., P.E.

16 Defendant V.P. - FINANCE
17 THE BEISTLE COMPANY

18 **APPROVED AS TO FORM:**

APPROVED AS TO FORM:

19 Date: _____

Date: 5/7/09

20 HIRST & CHANLER LLP

ARNOLD & PORTER LLP

21 By: _____

By: 

22 Clifford A. Chanler
23 Attorneys for Plaintiff
24 ANTHONY E. HELD, Ph.D., P.E.

25 Trenton H. Norris
26 Sarah Esmaili
27 Attorneys for Defendant
28 THE BEISTLE COMPANY

IT IS SO ORDERED.

Date: _____

JUDGE OF THE SUPERIOR COURT