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8  
9 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
10 COUNTY OF SAN FRANCISCO

11 EMA BELL,

12 Plaintiff,

13 v.

14 CRAIG ENTERPRISES, INC., ANTHEM  
15 SPORTS, LLC,

16 Defendants.

Case No.: CGC-23-603819

**CONSENT JUDGMENT**

Judge: Richard B. Ulmer

Dept.: 302

Hearing Date: November 27, 2024

Hearing Time: 9:30 AM

Complaint Filed: January 5, 2023

1       **1. INTRODUCTION**

2           1.1       **The Parties.** This Consent Judgment is entered into by and between Ema Bell acting  
3 on behalf of the public interest (hereinafter “Bell”) and Anthem Sports, LLC (“Anthem” or  
4 “Defendant”) with Bell and Defendant collectively referred to as the “Parties” and each of them as  
5 a “Party.” Bell is an individual residing in California that seeks to promote awareness of exposures  
6 to toxic chemicals and improve human health by reducing or eliminating hazardous substances  
7 contained in consumer products. Anthem is alleged to be a person in the course of doing business  
8 for purposes of Proposition 65, Cal. Health & Safety Code §§ 25249.6 et seq.

9           1.2       **Allegations and Representations.** Bell alleges that Defendant has exposed  
10 individuals to di(2-ethylhexyl) phthalate (DEHP) from its sales of Ultrak carry cases for L10  
11 MultiLane track timer, SKU # A94-737 without providing a clear and reasonable exposure warning  
12 pursuant to Proposition 65. DEHP is listed pursuant to Proposition 65 as a chemical known to the  
13 State of California to cause cancer and birth defects or other reproductive harm.

14           1.3       **Notice of Violation/Action.** On or about January 6, 2022, Bell served Anthem and  
15 various public enforcement agencies with documents entitled “60-Day Notice of Violation”  
16 pursuant to Health & Safety Code §25249.7(d) (the “Notice”), alleging that Defendant violated  
17 Proposition 65 for failing to warn consumers and customers that use of Ultrak carry cases for L10  
18 MultiLane track timer, SKU # A94-737 expose users in California to DEHP. No public enforcer  
19 has brought and is diligently prosecuting the claims alleged in the Notice. On January 5, 2023, Bell  
20 filed a complaint (the “Complaint”).

21           1.4       For purposes of this Consent Judgment only, the Parties stipulate that this Court has  
22 jurisdiction over Defendant as to the allegations contained in the Action filed in this matter, that  
23 venue is proper in the County of San Francisco, and that this Court has jurisdiction to approve,  
24 enter, and oversee the enforcement of this Consent Judgment as a full and final binding resolution  
25 of all claims which were or could have been raised in the Action based on the facts alleged therein  
26 and in the Notice.

1           1.5     Defendant denies the material allegations contained in Bell’s Notice and Action and  
2 maintains that it has not violated Proposition 65. Nothing in this Consent Judgment shall be  
3 construed as an admission by Defendant of any fact, finding, issue of law, or violation of law; nor  
4 shall compliance with this Consent Judgment constitute or be construed as an admission by  
5 Defendant of any fact, finding, conclusion, issue of law, or violation of law, such being specifically  
6 denied by Defendant. However, this section shall not diminish or otherwise affect the obligations,  
7 responsibilities, and duties of Defendant under this Consent Judgment.

8     **2.     DEFINITIONS**

9           2.1     **Covered Products.** The term “Covered Products” means Ultrak carry cases for L10  
10 MultiLane track timer, SKU # A94-737 that are manufactured, distributed, shipped into California  
11 and offered for sale in California by Anthem.

12           2.2     **Effective Date.** The term “Effective Date” means the date this Consent Judgment is  
13 entered as a Judgment of the Court.

14     **3.     INJUNCTIVE RELIEF: WARNINGS**


15           3.1     **Clear and Reasonable Warning.** Commencing with sixty (60) days after the  
16 Effective Date, and continuing thereafter, a clear and reasonable exposure warning as set forth in  
17 this §§ 3.1 and 3.2 must be provided for all Covered Products that Defendant manufacturers,  
18 imports, distributes, sells, or offers for sale in California. There shall be no obligation for Defendant  
19 to provide a warning for Covered Products that enter the stream of commerce prior to 60 days after  
20 the Effective Date. The warning shall consist of either the **Warning** or **Alternative Warning**  
21 described in §§ 3.1(a) or (b), respectively:

22           (a)     **Warning.** The “Warning” shall consist of the statement:

23           ⚠ **WARNING:** This product can expose you to chemicals including di(2-  
24 ethylhexyl) phthalate (DEHP), which is known to the State of California to cause  
25 cancer and birth defects or other reproductive harm. For more information go to  
[www.P65Warnings.ca.gov](http://www.P65Warnings.ca.gov).

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1 (b) **Alternative Warning:** Anthem may, but is not required to, use the alternative short-  
2 form warning as set forth in this § 3.1(b) (“**Alternative Warning**”) as follows:

3  **WARNING:** Cancer and Reproductive Harm - [www.P65Warnings.ca.gov](http://www.P65Warnings.ca.gov).

4 3.2 A **Warning** or **Alternative Warning** provided pursuant to § 3.1 must print the word  
5 “**WARNING:**” in all capital letters and in bold font, followed by a colon. The warning symbol to  
6 the left of the word “**WARNING:**” must be a black exclamation point in a yellow equilateral  
7 triangle with a black outline, except that if the sign or label for the Covered Product does not use  
8 the color yellow, the symbol may be in black and white. The symbol must be in a size no smaller  
9 than the height of the word “**WARNING:**”. The **Warning** or **Alternative Warning** shall be affixed  
10 to or printed on the Covered Product’s packaging or labeling, or on a placard, shelf tag, sign or  
11 electronic device or automatic process, providing that the **Warning** or **Alternative Warning** is  
12 displayed with such conspicuousness, as compared with other words, statements, or designs as to  
13 render it likely to be read and understood by an ordinary individual under customary conditions of  
14 purchase or use. The **Warning** or **Alternative Warning** may be contained in the same section of  
15 the packaging, labeling, or instruction booklet that states other safety warnings, if any, concerning  
16 the use of the Covered Product and shall be at least the same size as those other safety warnings. If  
17 “consumer information,” as that term is defined in Title 27, California Code of Regulations, Section  
18 25600.1(c) as it may be amended from time to time, is provided in a foreign language, Anthem  
19 shall provide the **Warning** or **Alternative Warning** in the foreign language in accordance with  
20 applicable warning regulations adopted by the State of California’s Office of Environmental Health  
21 Hazard Assessment (“**OEHHA**”).

22 In addition to affixing the **Warning** or **Alternative Warning** to the Covered Product’s  
23 packaging or labeling, the **Warning** or **Alternative Warning** shall be posted on websites where  
24 Anthem offers Products for sale to consumers in California. The requirements of this Section shall  
25 be satisfied if the **Warning** or **Alternative Warning**, or a clearly marked hyperlink using the word  
26 “**WARNING,**” appears on the product display page, or by otherwise prominently displaying the  
27 warning to the purchaser prior to completing the purchase. To comply with this Section, Anthem  
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1 shall (a) post the **Warning** or **Alternative Warning** on its own website and, if it has the ability to  
2 do so, on the websites of its third-party internet sellers; and (b) if it does not have the ability to post  
3 the **Warning** or **Alternative Warning** on the websites of its third-party internet sellers, provide  
4 such sellers with written notice in accordance with Title 27, California Code of Regulations, §  
5 25600.2. Third-party internet sellers of the Covered Product that have been provided with written  
6 notice in accordance with Title 27, California Code of Regulations, § 25600.2 are not released in  
7 Section 5 of this Agreement if they fail to meet the warning requirements herein.

8           3.3    **Compliance with Warning Regulations.** Defendant shall be deemed to be in  
9 compliance with this Consent Judgment by either adhering to §§ 3.1 and 3.2 of this Consent  
10 Judgment or by complying with warning regulations adopted by OEHHA applicable to the Covered  
11 Product and exposures at issue.

12    **4.    MONETARY TERMS**

13           4.1    **Civil Penalty.** Anthem shall pay \$1,000.00 as a Civil Penalty pursuant to Health  
14 and Safety Code section 25249.7(b), to be apportioned in accordance with California Health &  
15 Safety Code § 25192, with 75% of these funds remitted to OEHHA and the remaining 25% of the  
16 Civil Penalty remitted to Bell, as provided by California Health & Safety Code § 25249.12(d).

17           4.1.1   Within ten (10) days of the Effective Date, Anthem shall issue two separate  
18 checks for the Civil Penalty payment to (a) “OEHHA” in the amount of \$750.00; and to (b) “Ema  
19 Bell” in the amount of \$250.00. Payment owed to Bell pursuant to this Section shall be delivered  
20 to the following payment address:

21           Evan J. Smith, Esquire  
22           Brodsky Smith  
23           Two Bala Plaza, Suite 805  
24           Bala Cynwyd, PA 19004

25           Payment owed to OEHHA (EIN: 68-0284486) pursuant to this Section shall be delivered directly  
26 to OEHHA (Memo Line “Prop 65 Penalties”) at one of the following address(es):  
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For United States Postal Service Delivery:

Mike Gyurics  
Fiscal Operations Branch Chief  
Office of Environmental Health Hazard Assessment  
P.O. Box 4010  
Sacramento, CA 95812-4010

For Non-United States Postal Service Delivery:

Mike Gyurics  
Fiscal Operations Branch Chief  
Office of Environmental Health Hazard Assessment  
1001 I Street  
Sacramento, CA 95814

A copy of the check payable to OEHHA shall be mailed to Brodsky Smith at the address set forth above as proof of payment to OEHHA.

4.2 **Attorneys' Fees.** Within ten (10) days of the Effective Date, Anthem shall pay \$15,500.00 to Brodsky Smith as complete reimbursement for Bell's attorneys' fees and costs incurred as a result of investigating, bringing this matter to the attention of Anthem, litigating and negotiating and obtaining judicial approval of a settlement in the public interest, pursuant to Code of Civil Procedure § 1021.5.

**5. RELEASE OF ALL CLAIMS**

5.1 This Consent Judgment is a full, final, and binding resolution between Bell acting on her own behalf, and on behalf of the public interest, and Anthem, and its parents, shareholders, members, directors, officers, managers, employees, representatives, agents, attorneys, divisions, subdivisions, subsidiaries, partners, sister companies, and affiliates, and their predecessors, successors and assigns ("Defendant Releasees"), of all claims for violations of Proposition 65 based on exposure to DEHP from use of the Covered Products manufactured, distributed, or sold by Anthem within 60 days after the Effective Date as set forth in the Notice. It is the Parties' intention that this Consent Judgment shall have preclusive effect such that no other actions by private enforcers, whether purporting to act in his, her, or its interests or the public interest shall be permitted to pursue and take any action with respect to any violation of Proposition 65 based on exposure to DEHP from use of the Covered Products that was alleged in the Action, or that could

1 have been brought pursuant to the Notice against Anthem and the Defendant Releasees  
2 (“Proposition 65 Claims”). Anthem’s compliance with the terms of this Consent Judgment  
3 constitutes compliance with Proposition 65 by Anthem with regard to exposure to DEHP from use  
4 of the Covered Products.

5 5.2 In addition to the foregoing, Bell, on behalf of herself, her past and current agents,  
6 representatives, attorneys, and successors and assignees, and *not* in her representative capacity,  
7 hereby waives all rights to institute or participate in, directly or indirectly, any form of legal action  
8 and releases Anthem and Defendant Releasees from any and all manner of actions, causes of action,  
9 claims, demands, rights, suits, obligations, debts, contracts, agreements, promises, liabilities,  
10 damages, charges, losses, costs, expenses, and attorneys’ fees, of any nature whatsoever, known or  
11 unknown, in law or equity, fixed or contingent, now or in the future, with respect to any alleged  
12 violations of Proposition 65 related to or arising from Covered Products manufactured, distributed,  
13 or sold by Anthem or Defendant Releasees. With respect to the foregoing waivers and releases in  
14 this paragraph, Bell hereby specifically waives any and all rights and benefits which she now has,  
15 or in the future may have, conferred by virtue of the provisions of § 1542 of the California Civil  
16 Code, which provides as follows:

17 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE  
18 CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO  
19 EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE  
20 RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE  
MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE  
DEBTOR OR RELEASED PARTY.

21 5.3 Anthem waives any and all claims against Bell, her attorneys and other  
22 representatives, for any and all actions taken, or statements made (or those that could have been  
23 taken or made) by Bell and her attorneys and other representatives, whether in the course of  
24 investigating claims or otherwise seeking enforcement of Proposition 65 against it in this matter,  
25 and with respect to Covered Products.  
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**6. INTEGRATION**

6.1 This Consent Judgment contains the sole and entire agreement of the Parties and any and all prior negotiations and understandings related hereto shall be deemed to have been merged within it. No representations or terms of agreement other than those contained herein exist or have been made by any Party with respect to the other Party or the subject matter hereof.

**7. NOTICES**

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

For Defendant:

Keith M. Casto  
Womble Bond Dickinson (US) LLP  
50 California St., Ste. 2750  
San Francisco, CA 94111

And

For Bell:

Evan Smith  
Brodsky Smith  
9465 Wilshire Blvd., Ste. 300  
Beverly Hills, CA 90212

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.

**8. COUNTERPARTS; FACSIMILE SIGNATURES**

8.1 This Consent Judgment 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 document.



1 **9. COMPLIANCE WITH HEALTH & SAFETY CODE § 25249.7(f)/COURT**  
2 **APPROVAL**

3 9.1 Bell agrees to comply with the requirements set forth in California Health & Safety  
4 Code § 25249.7(f) and to promptly bring a Motion for Approval of this Consent Judgment.  
5 Defendant agrees it shall support approval of such Motion.

6 9.2 This Consent Judgment shall not be effective until it is approved and entered by the  
7 Court and shall be null and void if, for any reason, it is not approved by the Court. In such case, the  
8 Parties agree to meet and confer on how to proceed and if such agreement is not reached within 30  
9 days, the case shall proceed on its normal course.

10 9.3 If the Court approves this Consent Judgment and is reversed or vacated by an  
11 appellate court, the Parties shall meet and confer as to whether to modify the terms of this Consent  
12 Judgment. If the Parties do not jointly agree on a course of action to take, the case shall proceed on  
13 its normal course on the trial court's calendar.

14 **10. MODIFICATION**

15 10.1 This Consent Judgment may be modified only by further stipulation of the Parties  
16 and the approval of the Court or upon the granting of a motion brought to the Court by either Party.

17 **11. ATTORNEY'S FEES**

18 11.1 A Party who unsuccessfully brings or contests an action arising out of this Consent  
19 Judgment shall be required to pay the prevailing party's reasonable attorney's fees and costs.

20 11.2 Nothing in this Section shall preclude a Party from seeking an award of sanctions  
21 pursuant to law.

22 **12. RETENTION OF JURISDICTION**

23 12.1 This Court shall retain jurisdiction of this matter to implement or modify the  
24 Consent Judgment.

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**13. AUTHORIZATION**

13.1 The undersigned are authorized to execute this Consent Judgment on behalf of their respective Parties and have read, understood, and agree to all of the terms and conditions of this document and certify that he or she is fully authorized by the Party he or she represents to execute the Consent Judgment on behalf of the Party represented and legally bind that Party. Except as explicitly provided herein each Party is to bear its own fees and costs.

**AGREED TO:**

**AGREED TO:**

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

Date: 10/8/2024

By: \_\_\_\_\_  
EMA BELL

DocuSigned by:  
Mark Ferrara  
By: \_\_\_\_\_  
ANTHEM SPORTS, LLC  
2899155F005E401

**IT IS SO ORDERED, ADJUDGED AND DECREED:**

Dated: \_\_\_\_\_

\_\_\_\_\_  
Judge of Superior Court

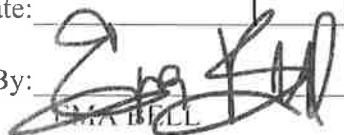
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**AGREED TO:**

**AGREED TO:**

Date: 10/9/24  
By: 

Date: \_\_\_\_\_  
By: \_\_\_\_\_  
ANTHEM SPORTS, LLC

**IT IS SO ORDERED, ADJUDGED AND DECREED:**

Dated: \_\_\_\_\_

\_\_\_\_\_  
Judge of Superior Court