

SETTLEMENT AGREEMENT

1. INTRODUCTION

1.1 Anthony E. Held, Ph.D., P.E., and Dex Products, Inc.

This Settlement Agreement (“Agreement”) is entered into by and between Anthony E. Held, Ph.D., P.E. (“Dr. Held”) and Dex Products, Inc. (“Dex”), with Dr. Held and Dex collectively referred to as the “parties.” Dr. Held is an individual residing in the State of California who seeks to promote awareness of exposure to toxic chemicals and improve human health by reducing or eliminating hazardous substances contained in consumer products. Dex employs ten or more persons and, thus, is a person in the course of doing business for purposes of the Safe Drinking Water and Toxic Enforcement Act of 1986, California Health & Safety Code §25249.6 *et seq.* (Proposition 65).

1.2 Notice of Violation

On January 11, 2008, Dr. Held served Dex and various public enforcement agencies with a document entitled a “60-Day Notice of Violation” (the “Notice”) that provided Dex and public enforcers with notice of alleged violations of Health & Safety Code §25249.6 for failing to warn consumers that certain baby products that Dex sold exposed users in California to DEHP (“the Listed Chemical”).

1.3 Complaints and Intervention

On March 20, 2008, the People of the State of California, by and through Edmund G. Brown Jr., Attorney General of the State of California, filed a complaint (“Attorney General’s complaint” or “*People v. Gerber Childrenswear, Inc., et al.*”) in the Superior Court in and for the County of Alameda against Dex, eleven other named defendants, and Does 1 through 100, alleging violations of Health & Safety Code §25249.6 based on the alleged exposures to DEHP contained in baby bibs sold by Dex. The case number for the action is RG08377849.

On March 21, 2008, Dr. Held, who was and is acting in the interest of the general public in California, filed an amended complaint (“Bentex amended complaint”) in *Held v. Bentex Group Inc., et al.*, in the Superior Court in and for the County of Alameda, substituting Dex and

SETTLEMENT AGREEMENT

three other defendants for “Doe” defendants, and naming two defendants and Does 4 through 150 from the original complaint. The Bentex amended complaint alleged violations of Health & Safety Code §25249.6 based on the alleged exposures to DEHP contained in baby bibs sold by Dex. The case number for the action is RG08370699.

On May 23, 2008, Dr. Held’s motion to intervene in *People v. Gerber Childrenswear, Inc., et al.*, Case No. RG08377849, was granted, “for the sole purpose of seeking his reasonable investigative costs and attorney fees, and to comment on any proposed consent judgments as to the issue of costs and attorneys fees, and with the express caveat that Plaintiff-Intervenor will have no role in the prosecution of the causes of action set forth in the complaint in the case in chief.”

On May 30, 2008, Dr. Held filed a complaint in intervention in the Superior Court in and for the County of Alameda in *People v. Gerber Childrenswear, Inc., et al.*, against Dex, ten other named defendants, and Does 1 through 100, alleging violations of Health & Safety Code §25249.6 based on the alleged exposures to DEHP contained in baby bibs sold by Dex.

Within 10 days of the execution of this Agreement, Dr. Held shall dismiss Dex as a defendant without prejudice in the Bentex amended complaint in Case No. RG08370699 and in the complaint in intervention in Case No. RG08377849.

1.4 No Admission

Dex denies the material, factual and legal allegations contained in Dr. Held’s Notice, the Bentex amended complaint, and the complaint in intervention, and maintains that all baby products that Dex has sold and distributed in California have been and are in compliance with all applicable laws. Nothing in this Agreement shall be construed as an admission by Dex of any fact, finding, issue of law, or violation of law.

1.5 Effective Date

For purposes of this Agreement, the term “Effective Date” shall mean July 15, 2008.

SETTLEMENT AGREEMENT

2. REIMBURSEMENT OF ATTORNEY FEES AND COSTS

Beginning on August 1, 2008, DEX shall, as reimbursement of a portion of, and in full satisfaction of any of plaintiff's investigative expenses and attorneys fees and costs incurred with respect to Dex, pay plaintiff's counsel \$1,000 on the first day of each of the next 14 months (ending on October 1, 2009); provided, however, that DEX may instead elect to pay plaintiff's counsel \$4,000 on August 1, 2008, and \$2,000 on the first day of each month thereafter for the following four months, at which time its payment obligation will be deemed to have been fully satisfied. Payment of the fees shall be made to "Hirst & Chanler LLP," and the payment shall be delivered, at the following address:

HIRST & CHANLER LLP
Attn: Proposition 65 Controller
Capitol Mall Complex
455 Capitol Mall, Suite 605
Sacramento, CA 95814

3. RELEASE OF ALL CLAIMS

3.1 Dr. Held's Release of Dex

In further consideration of the promises and agreements herein contained and for the payments to be made pursuant to Section 2, Dr. Held on behalf of himself, his past and current agents, representatives, attorneys, successors, and/or assignees, and in the interest of the general public, hereby releases all claims to reimbursement of investigative expenses and fees and costs of any nature whatsoever, whether known or unknown, fixed or contingent (collectively "claims"), against Dex and each of its wholesalers, licensors, licensees, auctioneers, retailers, franchisees, dealers, customers, owners, purchasers, users, parent companies, corporate affiliates, subsidiaries, and their respective officers, directors, attorneys, representatives, shareholders, agents, and employees, and sister and parent entities (collectively "Releasees"). This release is limited to those expenses, fees and costs that arise in relation to Dr. Held's and his counsel's efforts with respect to Proposition 65, as such expenses, fees, and costs relate to investigative and

SETTLEMENT AGREEMENT

litigation efforts associated with the alleged failure to warn about exposures to the Listed Chemical contained in products sold by Dex prior to the Effective Date.

3.2 Dex's Release of Dr. Held

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

4. NOTICES

Unless specified herein, all correspondence and notices required to be provided pursuant to this Agreement 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:

To Dex:

L. Jason Clute, President
DEX PRODUCTS, INC.
P.O. Box 2027
Antioch, CA 94531
With a copy to:

Robert L. Falk, Esq.
William F. Tarantino, Esq.
MORRISON & FOERSTER LLP
425 Market Street, 35th Floor
San Francisco, California 94105

To Dr. 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.

SETTLEMENT AGREEMENT

5. COUNTERPARTS; FACSIMILE SIGNATURES

This Agreement 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.

6. AUTHORIZATION

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

AGREED TO:

Date: 7/3/08 _____

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

AGREED TO:

Date: 7/11/08 _____

By: [Signature]
Defendant, DEX PRODUCTS, INC.

APPROVED AS TO FORM:

Date: 7/3/08 _____

HIRST & CHANLER LLP
By: [Signature]
Clifford A. Chanler
Attorneys for Plaintiff
ANTHONY E. HELD, Ph.D., P.E.

APPROVED AS TO FORM:

Date: [Signature] _____

MORRISON & FOERSTER LLP
By: 7/11/08 _____
Robert L. Falk
Attorneys for Defendant
DEX PRODUCTS, INC.