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13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
14 **FOR THE COUNTY OF ALAMEDA**

15 JOSEPH MICHAEL BALERO, MICHAEL
BALLERINI, AND LISA MILLER, on their own
16 behalf and on behalf of all others similarly situated,

17 Plaintiffs,

18 vs.

19 LUMBER LIQUIDATORS, INC., a Delaware
corporation, and DOES ONE through TEN
20 inclusive,

21 Defendants.

Case No.: RG14751116

CLASS ACTION

**FIRST AMENDED COMPLAINT FOR
RESTITUTION, DAMAGES, AND
INJUNCTIVE RELIEF**

1. **UNLAWFUL BUSINESS ACTS OR PRACTICES (Cal. Bus. & Prof. Code § 17200 et seq.);**
2. **FRAUDULENT BUSINESS ACTS OR PRACTICES (Cal. Bus. & Prof. Code § 17200 et seq.);**
3. **UNFAIR BUSINESS ACTS OR PRACTICES (Cal. Bus. & Prof. Code § 17200 et seq.);**
4. **FALSE ADVERTISING LAW (Cal. Bus. & Prof. Code § 17500 et seq.);**
5. **CONSUMER LEGAL REMEDIES ACT (Cal. Civ. Code § 1750 et seq.);**
6. **BREACH OF EXPRESS WARRANTY (Cal. Uniform Com. Code § 2313)**
7. **DECLARATORY RELIEF**

DEMAND FOR JURY TRIAL

ENDORSED
FILED
ALAMEDA COUNTY

JAN 12 2015
CLERK OF THE SUPERIOR COURT
By _____ Deputy

1 Plaintiffs Joseph Michael Balero, Michael Ballerini, and Lisa Miller (“Plaintiffs”), on behalf of
2 themselves and all others similarly situated (hereinafter “Class Members”), bring this class action
3 against Lumber Liquidators, Inc. (“Defendant” or “Lumber Liquidators”) and DOES ONE through
4 TEN, inclusive, and complain and allege the following upon personal knowledge as to their own
5 experiences, and based upon information and belief as to all other matters:

6 **I. INTRODUCTION**

7 1. Defendant Lumber Liquidators, Inc. supervises and controls the manufacturing, and
8 packages, distributes, markets and/or sells laminate wood flooring products to consumers in California.
9 Defendant’s labels on these laminate wood flooring products represent that the products comply with
10 strict formaldehyde emission standards promulgated by the California Air Resources Board (“CARB”)
11 and enumerated in California’s Airborne Toxic Control Measure to Reduce Formaldehyde Emissions
12 from Composite Wood Products (“CARB Regulations”). Cal. Code Regs. tit. 17, §§ 93120-93120.12.
13 Formaldehyde is a substance known to the State of California to cause cancer. However, laminate
14 wood flooring products that are manufactured in China and sold by Lumber Liquidators to consumers
15 in California emit formaldehyde gas at levels that exceed the strict limits set forth in the CARB
16 standards. Defendant fails to disclose the unlawful level of formaldehyde emission to consumers.
17 Hence, California consumers are buying flooring products from Defendant that should not be
18 distributed or sold in California. They are also buying flooring products from Defendant that
19 Defendant says are safe when in fact they are not.

20 2. Exposure to formaldehyde is linked to increased risk of cancer of the nose and sinuses,
21 nasopharyngeal and oropharyngeal cancer, lung cancer, and leukemia. Formaldehyde also causes
22 burning eyes, nose and throat irritation, coughing, headaches, dizziness, joint pain and nausea.
23 Formaldehyde has also been linked to the exacerbation of asthma in formaldehyde-sensitive
24 individuals.

25 3. Laminate wood flooring is generally composed of a base layer of pressed composite wood
26 (particle board or medium-density fiberboard), which is a mixture of sawdust or wood particles bonded
27 together with glue or resin, and a top layer which is usually a veneer or other material such as a
28 photographic image or picture of wood, affixed as a decorative surface. The CARB Regulations

1 categorize medium density fiberboard as either “MDF,” which has a thickness of greater than 8 mm, or
2 “Thin MDF,” which has a thickness of 8mm or less. Cal. Code Regs. tit. 17, §§ 93120.

3 4. Inexpensive laminate wood flooring, often produced in China, can be a significant
4 source of formaldehyde gas emissions since formaldehyde glues and resins are used to hold the pressed
5 wood together.

6 5. Lumber Liquidators supervises and controls the manufacturing of laminate wood
7 flooring products from several manufacturing plants in China. Lumber Liquidators sells those
8 laminate wood flooring products at Lumber Liquidators’ 37 retail stores in California. Defendant also
9 sells those laminate wood flooring products to California consumers through Lumber Liquidators’
10 retail website, www.lumberliquidators.com, and through its toll free customer service telephone line,
11 1-800-HARDWOOD (1-800-427-3966).

12 6. From October 2013 through November 2014, three certified and accredited laboratories
13 tested the formaldehyde emissions of laminate wood flooring purchased from several nationwide retail
14 outlets, including Home Depot, Lowe’s, and Lumber Liquidators. Of the dozens of products tested, by
15 far the highest formaldehyde levels were found in the laminate wood flooring sold by Lumber
16 Liquidators that was produced in China. Similar products manufactured in North America generally
17 had much lower formaldehyde levels that complied with the formaldehyde emission standards
18 promulgated by CARB. Similar products tested from Lumber Liquidators’ competitors also showed
19 significantly lower formaldehyde levels that generally complied with the CARB formaldehyde
20 emission standards.

21 7. Over the past several months, a sample of each available brand of Chinese-made
22 laminate wood flooring product that Defendant sells in California was tested by a certified laboratory
23 using the testing methodology specified by CARB. As set forth in paragraph 27 below, each sampled
24 product exceeded the CARB limit for formaldehyde emissions.

25 8. Consistent with this pattern of test results showing that Lumber Liquidators’ laminate
26 wood flooring products exceed the CARB formaldehyde emission limits, on or about October 17,
27 2014, laminate wood flooring that Plaintiffs Joseph Michael Balero, Michael Ballerini, and Lisa Miller
28

1 purchased from Lumber Liquidators in California was also tested by a certified laboratory using CARB
2 testing methodology. Each of those products exceeded the CARB limits for formaldehyde emissions.

3 9. Lumber Liquidators does not give consumers any warnings about unlawful
4 formaldehyde levels in its laminate wood flooring products, but instead represents on its product
5 labels, website, and warranties that its flooring products comply with strict formaldehyde standards.
6 Lumber Liquidators has made false and misleading statements that its flooring products comply with
7 CARB formaldehyde standards, and the even more stringent European formaldehyde standards.
8 Lumber Liquidators' website falsely states, "we not only comply with laws-we exceed them." Highest
9 Quality Flooring. GUARANTEED., lumberliquidators.com,
10 http://www.lumberliquidators.com/ll/flooring/quality?WT.ad=GLOBAL_FOOTER_Quality (last
11 visited on December 10, 2014).

12 10. Plaintiffs seek to represent themselves and similarly-situated persons in California who
13 have purchased Defendant's laminate wood flooring products that were manufactured in China,
14 labeled as CARB compliant, and sold to consumers in California at any time from January 1, 2011
15 through the date of judgment herein ("the putative class"). Pursuant to California Business &
16 Professions Code §§ 17203, 17500 *et seq.*, Plaintiffs seek restitution of monies they and the putative
17 class spent on Defendant's flooring products. Pursuant to California Business & Professions Code
18 § 17203 and California Civil Code § 1780, Plaintiffs seek injunctive relief enjoining Defendant's
19 ongoing unlawful, unfair, and fraudulent business practices. Pursuant to California Uniform
20 Commercial Code § 2313, Plaintiffs seek damages on behalf of themselves and the putative class.

21 **II. JURISDICTION AND VENUE**

22 11. This Court has jurisdiction over this action pursuant to California Constitution Article
23 VI, Section 10, which grants the Superior Court "original jurisdiction in all causes except those given
24 by statute to other trial courts." The statutes under which this action is brought do not specify any
25 basis for jurisdiction in another trial court.

26 12. This Court has jurisdiction over Defendant because Defendant is a business that has
27 sufficient minimum contacts with California, or otherwise intentionally avails itself of the California
28 market through the distribution and sale of laminate wood flooring products in the State of California

1 to render the exercise of jurisdiction over it by the California courts consistent with traditional notions
2 of fair play and substantial justice.

3 13. The Court has jurisdiction over Doe Defendants because they conduct business within
4 the state of California.

5 14. Venue is proper in this Court because Defendant has sold laminate wood flooring
6 products to Plaintiffs Balero, Ballerini, and members of the putative class in the County of Alameda.
7 Additionally, Plaintiffs Balero, Ballerini, and members of the putative class who purchased
8 Defendant's laminate wood flooring products reside in the County of Alameda.

9 III. PARTIES

10 15. Plaintiff Joseph Michael Balero ("Plaintiff Balero") is, and at all relevant times has
11 been, a resident of Alameda County, California. On March 3, 2013, Mr. Balero purchased 8 mm
12 Dream Home Nirvana French Oak Laminate Flooring at a Lumber Liquidators store located in
13 Alameda County.

14 16. Michael Ballerini ("Plaintiff Ballerini") is, and at all relevant times has been, a resident
15 of Alameda County, California. On January 11, 2014, Plaintiff Ballerini purchased 8 mm Dream
16 Home Nirvana Royal Mahogany Laminate Flooring at a Lumber Liquidators store located in Alameda
17 County.

18 17. Plaintiff Lisa Miller ("Plaintiff Miller") is, and at all relevant times has been, a resident
19 of Solano County, California. On May 26, 2012 and February 26, 2014, Plaintiff Miller purchased 12
20 mm Dream Home Ispiri America's Mission Olive Laminate Flooring at a Lumber Liquidators store
21 located in Contra Costa County.

22 18. The Plaintiffs are all consumers within the meaning of California Civil Code § 1761.

23 19. Defendant Lumber Liquidators Inc. is a Delaware corporation with its headquarters and
24 principal place of business in Toano, Virginia. Lumber Liquidators, Inc. distributes, markets, and/or
25 sells laminate wood flooring products in California. Lumber Liquidators, Inc. sells goods within the
26 meaning of California Civil Code § 1761.

27 20. Lumber Liquidators is one of the largest specialty retailers of hardwood flooring in the
28 United States, with over 300 retail stores in 46 states, including 37 stores in California.

1 21. Defendants DOES ONE through TEN inclusive are sued herein pursuant to California
2 Code of Civil Procedure § 474.

3 **IV. FACTUAL ALLEGATIONS**

4 **A. California's Formaldehyde Standard**

5 22. On January 1, 1988, the State of California officially listed Formaldehyde (gas) as a
6 chemical known to cause cancer.

7 23. In 1992, the CARB formally listed formaldehyde as a Toxic Air Contaminant in
8 California with no safe level of exposure.

9 24. The CARB approved the Airborne Toxic Control Measure to Reduce Formaldehyde
10 Emissions from Composite Wood Products in April 2007. The formaldehyde emission standards
11 became effective January 2009 and set decreasing limits in two Phases. Cal. Code Regs., tit. 17,
12 § 93120.2(a).

13 25. The CARB Regulations apply to composite wood ("laminated") products including
14 flooring. Cal. Code Regs., tit. 17, § 93120.2(a).

15 26. The CARB Phase 1 Emission Standard for MDF, which was in effect from January 1, 2009
16 to December 31, 2010, limited formaldehyde emissions to .21 parts per million ("ppm"). The Phase 2
17 Emission Standard for MDF dictates that as of January 1, 2011, MDF flooring products such as those
18 involved in this action that are sold in California must emit no more than 0.11 parts per million
19 ("ppm") of formaldehyde. The CARB Phase 1 Emission Standard for Thin MDF, which was in effect
20 from January 1, 2009 to December 31, 2011, limited formaldehyde emissions to .21 ppm. The CARB
21 Phase 2 Emission Standard for Thin MDF dictates that as of January 1, 2012, thin MDF flooring
22 products such as those involved in this action that are sold in California must emit no more than 0.13
23 ppm of formaldehyde. Cal. Code Regs., tit. 17, § 93120.2(a). Hereinafter, the formaldehyde emission
24 standards for both MDF and Thin MDF will be referred to as the "CARB limit.")

25 **B. Lumber Liquidators' Laminated Wood Flooring Products**

26 27. Defendant supervises and/or controls the manufacturing and packaging of laminated
27 wood flooring products in China that Defendant then distributes, markets, and/or sells in California.
28 Those laminated wood flooring products contain formaldehyde and emit formaldehyde gas at levels that

1 exceed, and sometimes grossly exceed, the CARB limit. Those laminate wood flooring products
2 include the following:

- 3 a. 8 mm Dream Home Nirvana Royal Mahogany Laminate Flooring (the product
4 purchased by Plaintiff Ballerini);
- 5 b. 8 mm Dream Home Nirvana French Oak Laminate Flooring (the product
6 purchased by Plaintiff Balero);
- 7 c. 12 mm Dream Home Ispiri Poplar Forest Oak Laminate Flooring (the product
8 purchased by Plaintiff Miller);
- 9 d. 12 mm Dream Home Kensington Manor Antique Bamboo Laminate Flooring;
- 10 e. 12 mm Dream Home St. James Oceanside Plank Laminate Flooring;
- 11 f. 12 mm Dream Home Kensington Manor Warm Springs Chestnut Laminate
12 Flooring;
- 13 g. 15 mm Dream Home St. James Sky Lakes Pine Laminate Flooring;
- 14 h. 12 mm Dream Home Kensington Manor Imperial Teak Laminate Flooring;
- 15 i. 12 mm Dream Home St. James Vintner's Reserve Laminate Flooring;
- 16 j. 12 mm Dream Home Kensington Manor Cape Doctor Laminate Flooring;
- 17 k. 12 mm Dream Home St. James Golden Acacia Laminate Flooring;
- 18 l. 12 mm Dream Home Kensington Manor Sandy Hills Hickory Laminate
19 Flooring;
- 20 m. 12 mm Dream Home Kensington Manor Tanzanian Wenge Laminate Flooring;
- 21 n. 12 mm Dream Home Ispiri America's Mission Olive Laminate Flooring;
- 22 o. 12 mm Dream Home Kensington Manor Golden Teak Laminate Flooring;
- 23 p. 12 mm Dream Home Kensington Manor Summer Retreat Teak Laminate
24 Flooring;
- 25 q. 12 mm Dream Home Kensington Manor Glacier Peak Poplar Laminate
26 Flooring;
- 27 r. 12 mm Dream Home St. James Brazilian Koa Laminate Flooring;
- 28 s. 12 mm Dream Home St. James Blacksburg Barn Board Laminate Flooring;

- 1 t. 12 mm Dream Home St. James Nantucket Beech Laminate Flooring;
2 u. 12 mm Dream Home St. James Chimney Rock Charcoal Laminate Flooring;
3 v. 12 mm Dream Home St. James African Mahogany Laminate Flooring;
4 w. 12 mm Dream Home Kensington Manor Fumed African Ironwood Laminate
5 Flooring.

6 28. CARB regulations apply to all of these flooring products.

7 29. On information and belief, each of the Lumber Liquidators' laminate wood flooring
8 products listed in paragraph 27 above are manufactured in China using a common formula, design or
9 process.

10 30. On information and belief, each of the Lumber Liquidators' laminate wood flooring
11 products listed in paragraph 27 above emit formaldehyde gas at levels that exceed the CARB limit.

12 **V. LUMBER LIQUIDATORS MISREPRESENTS THAT ITS LAMINATE WOOD**
13 **FLOORING PRODUCTS MEET CARB STANDARDS**

14 31. Despite unlawful levels of formaldehyde emissions from its laminate wood flooring
15 products, Defendant misrepresent to consumers on their website, product packaging, and warranties
16 that their laminate wood flooring products meet the CARB standards for formaldehyde emissions.

17 32. Lumber Liquidators' website leads consumers to believe that the company's laminate
18 wood flooring products comply with the CARB formaldehyde standards when they do not. The
19 website states as follows:

20 Is Lumber Liquidators Compliant with the California law?

21 Laminate and engineered flooring products sold by Lumber Liquidators
22 are purchased from mills whose production method has been certified by
23 a Third Party Certifier approved by the State of California to meet the
24 CARB standards. The scope of the certification by the Third Party
25 Certifier includes the confirmation that the manufacturer has
26 implemented the quality systems, process controls, and testing
27 procedures outlined by CARB and that their products conform to the
28 specified regulation limits. The Third Party Certifier also provides
ongoing oversight to validate the manufacturers' compliance and
manufacturers must be periodically re-certified.

Does CARB only apply to California?

Though it currently applies only to products sold in California, Lumber
Liquidators made a decision to require all of our vendors to comply with
the California Air Resources Board regulations regardless of whether we

intended to sell the products in California or any other state/country.

What extra steps does Lumber Liquidators take to ensure compliance?

In addition to the California Air Resources Board requirements, Lumber Liquidators regularly selects one or more finished products from each of its suppliers and submits them for independent third-party lab testing. This is done as a monitoring activity to validate ongoing quality control.

What are the California Air Resource Board Regulations?, [lumberliquidators.com](http://www.lumberliquidators.com), http://www.lumberliquidators.com/ll/flooring/ca-air-resources-board-regulations?Wt.ad=GLOBAL_FOOTER_CaliRegCARB (last visited on December 10, 2014).

33. In addition, the product packaging for Lumber Liquidators' laminate wood flooring states: "CARB . . . Phase 2 Compliant Formaldehyde." On information and belief, this statement is presented on all Lumber Liquidators' laminate flooring product packaging regardless of whether the flooring inside the packaging complies with the CARB standards.



34. Lumber Liquidators' purchase orders come with a warranty stating that the customer's purchased flooring products comply "with all applicable laws, codes and regulations," and "bear all warnings, labels, and markings required by applicable laws and regulations." Purchase Order Terms and Conditions, [lumberliquidators.com](http://www.lumberliquidators.com), <http://www.lumberliquidators.com/ll/customer-care/potc800201> (last visited on December 10, 2014).

35. Lumber Liquidators website guarantees the "highest quality" flooring, and states:

1 “We inspect your flooring at every stage: before it’s finished, during
2 production, and as it’s shipped. ... **to ensure you get only the best.**”

3 Highest Quality Flooring. GUARANTEED., <http://www.lumberliquidators.com/ll/flooring/quality?WT.ad=GLOBAL>
4 FOOTER Quality (last visited on December 10, 2014) (emphasis in
5 original).

6 36. Instead of warning consumers about formaldehyde emissions from its laminate wood
7 flooring products, Lumber Liquidators’ website states that it has Third Party Certifiers approve its
8 flooring products to meet CARB standards.

9 Regulations and Lumber Liquidators’ Compliance

10 The California Air Reform Bill (CARB) requires that products
11 containing Hardwood Plywood Veneer Core (HWP-VC), Hardwood
12 Plywood Composite Core (HWP-CC), Particleboard and MDF be tested
13 for emissions and products not meeting the strict standards for emissions
14 may not be sold in California.

15 The Environmental Protection Agency has drafted national standards for
16 formaldehyde emissions in composite wood products that are similar to
17 those of California. Those standards have not yet been enacted.

18 All laminates and engineered flooring products sold by Lumber
19 Liquidators are purchased from mills whose production method has been
20 certified by a Third Party Certifier approved by the State of California to
21 meet the CARB standards. The scope of the certification by the Third
22 Party Certifier includes the confirmation that the manufacturer has
23 implemented the quality systems, process controls, and testing
24 procedures outlined by CARB and that their products conform to the
25 specified formaldehyde emission limits. The Third Party Certifier also
26 provides ongoing oversight to validate the manufacturers’ compliance
27 and manufacturers must be periodically re-certified. Though it currently
28 applies only to products sold in California, Lumber Liquidators made a
decision to require all of our suppliers to comply with CARB regardless
of whether we intended to sell the products in California or any other
state/country. In addition, our suppliers manufacture their products in
accordance with the European standard which has stricter guidelines than
the California. In addition to the CARB requirements, Lumber
Liquidators regularly selects one or more products from each of its
suppliers and submits them for independent third-party lab testing. This
is done as a monitoring activity to validate ongoing compliance.

Formaldehyde-What is it?. [Lumberliquidators.com, http://www.lumberliquidators.com/ll/flooring/Flooring101-formaldehyde-what-is-it](http://www.lumberliquidators.com/ll/flooring/Flooring101-formaldehyde-what-is-it) (last visited on December 10, 2014.)

37. Lumber Liquidators materially misrepresents the safety of its laminate wood flooring
products by advertising its flooring products as compliant with the CARB limit when in fact they are
not.

1 38. Lumber Liquidators makes the material omission of failing to tell consumers that they
2 are buying laminate wood flooring products with unlawfully high levels of formaldehyde.

3 39. These laminate wood flooring products have been sold by Defendant for use in
4 California for over four years.

5 40. Defendant continues to distribute and sell its laminate wood flooring products to
6 customers in California with the representation that they are CARB compliant, even though they are
7 not.

8 **VI. LUMBER LIQUIDATORS KNOWINGLY MISREPRESENTS THE SAFETY**
9 **OF ITS LAMINATE WOOD FLOORING PRODUCTS**

10 41. On information and belief, at all times relevant to this action, Lumber Liquidators has
11 knowingly misrepresented its laminate wood flooring products as CARB compliant and knowingly
12 failed to disclose to consumers the unlawful levels of formaldehyde emissions from its laminate wood
13 flooring products.

14 42. At the same time that Defendant is representing in its public statements to consumers
15 that the laminate wood products it sells are sourced from mills whose production methods are CARB
16 compliant and that the products conform to CARB's specified formaldehyde emission limits,
17 Defendant has acknowledged in statements made to the Securities and Exchange Commission that,
18 "While our suppliers agree to operate in compliance with applicable laws and regulations, including
19 those relating to environmental and labor practices, we do not control our suppliers. Accordingly, we
20 cannot guarantee that they comply with such laws and regulations or operate in a legal, ethical and
21 responsible manner. Violation of environmental, labor or other laws by our suppliers or their failure to
22 operate in a legal, ethical and responsible manner, could . . . expose us to legal risks as a result of our
23 purchase of product from non-compliant suppliers." Lumber Liquidators February 19, 2014 10-K to
24 the United States Securities and Exchange Commission at p. 14,
25 <http://investors.lumberliquidators.com/index.php?o=25&s=127>. In the same SEC filing, however,
26 Lumber Liquidators admits that it oversees quality control in its Chinese mills: "We are able to set
27 demanding specifications for product quality and our own quality control and assurance teams are on-
28 site at the mills, coordinating inspection and assurance procedures." Lumber Liquidators February 19,

1 2014 10-K to the United States Securities and Exchange Commission at p. 5. Despite its stated
2 concern that its suppliers might not comply with environmental regulations, Defendant has failed to
3 sufficiently exercise its acknowledged quality control over those suppliers to ensure that they comply
4 with CARB standards, and Defendant continues to sell to California consumers laminate wood flooring
5 products that Defendant obtains from those suppliers.

6 43. On June 20, 2013, *Seeking Alpha*, a news website with millions of viewers, published a
7 lengthy article documenting high formaldehyde levels in Chinese-made laminate flooring sold by
8 Lumber Liquidators. The author of the article, Xuhua Zhou, retained a certified laboratory to test three
9 samples of Chinese-made laminate flooring sold by Lumber Liquidators. Zhou's article states, "The
10 tested product, Mayflower 5/16" x 5" Bund Birch Engineered, emits a staggering three and half times
11 over the government mandated maximum emission level. The product is clearly not CARB compliant
12 yet Lumber Liquidators tagged CARB compliance on the box." Xuhua Zhou, *Illegal Products Could*
13 *Spell Big Trouble At Lumber Liquidators*, Seeking Alpha (June 20, 2013, 2:33 PM ET),
14 <http://seekingalpha.com/article/1513142-illegal-products-could-spell-big-trouble-at-lumber-liquidators>
15 (last visited on December 10, 2014).

16 44. On information and belief, high formaldehyde content resins and glues are less
17 expensive and dry more quickly than low formaldehyde glues and resins. By using high formaldehyde
18 content resins and glues rather than low formaldehyde content resins and glues, Lumber Liquidators'
19 Chinese manufacturers are able to produce laminate wood flooring more quickly and at higher volumes
20 thereby reducing costs and generating greater profits for Lumber Liquidators.

21 45. On or about November 26, 2013, a putative federal securities class action lawsuit was
22 filed against Lumber Liquidators in the United States District Court in the Eastern District of Virginia
23 based on drops in the stock price following the *Seeking Alpha* article and its allegations concerning the
24 formaldehyde emissions from Defendant's laminate wood flooring products. *Kiken v. Lumber*
25 *Liquidators Holdings, Inc., et al.*, 4:2013-cv-00157 (E.D.Va). This case is currently pending.

26 46. On or about December 3, 2013, another putative class action lawsuit was filed against
27 Lumber Liquidators in the same federal court alleging claims related to illegal formaldehyde emissions
28 from Defendant's laminate wood flooring products. *Williamson v. Lumber Liquidators Holdings, Inc.*,

1 1:13-cv-01487-AJT-TCB (E.D.Va.). Although the case was dismissed due to a technicality, Lumber
2 Liquidators was made aware during the pendency of that lawsuit of complaints and allegations that its
3 laminate wood flooring products from China emit formaldehyde gas at levels that violate the CARB
4 limit.

5 47. Numerous Lumber Liquidators customers have posted internet complaints on
6 Defendant's website concerning formaldehyde emissions, including Deborah of North Fork, California
7 who posted on the Consumer Affairs website on September 11, 2014:

8 We spent thousands of dollars and went with the LL recommended
9 professional installer... the product we were sold was supposedly Made
10 in the USA--nope, China. One of my children cannot walk barefoot on
11 the floor because he will blister from the formaldehyde content. We
12 saved for years for this floor, it will need to be replaced. Please RUN to
13 another dealer. This company does not care about the customer one bit.
14 This has been a devastating blow to our family. Consumer Complaints &
15 Reviews,
16 http://www.Consumeraffairs.com/homeowners/lumber_liquidators.html
17 on December 2, 2014.)

18 48. Based on these lawsuits, articles, and blog posts, Defendant knew or should have known
19 that its laminate wood flooring products were not compliant with CARB standards. Despite this
20 knowledge, Defendant failed to reformulate its flooring products so that they are CARB compliant or
21 to disclose to consumers that these products emit unlawful levels of formaldehyde. Instead, Defendant
22 has sold and continues to sell laminate wood flooring products in California that exceed the CARB
23 limit and it has continually represented to consumers that those products are CARB compliant.

24 **VII. FACTS RELATING TO NAMED PLAINTIFFS**

25 **Plaintiff Joseph Michael Balero**

26 49. On March 3, 2013, Plaintiff Joseph Michael Balero purchased 8 mm Dream Home
27 Nirvana French Oak Laminate Flooring at a Lumber Liquidators store located in Livermore,
28 California. On information and belief, the flooring was produced at the laminate mill in China called
29 Jiangsu Beier Decoration Materials, with the Medium Density Fireboard ("MDF") supplied by
30 Shandong Heyou.

31 50. At the time that Plaintiff Balero purchased this laminate wood flooring, Lumber
32 Liquidators falsely represented that the product was compliant with CARB formaldehyde emission

1 standards. At the time of the purchase, Lumber Liquidators also failed to inform Plaintiff Balero that
2 the laminate wood flooring product he purchased actually exceeded the CARB formaldehyde emission
3 limit and that formaldehyde is a chemical known to the State of California to cause cancer. Plaintiff
4 Balero relied on Lumber Liquidators' misrepresentations/omissions regarding compliance with CARB
5 formaldehyde emission standards when deciding to purchase the laminate wood flooring products and,
6 as a result, paid Lumber Liquidators for products he would not have otherwise purchased.

7 51. On or about August or September 2014, Plaintiff Balero contacted Lumber Liquidators
8 to ask about the safety of his flooring. On September 4, 2014, Matthew@lumberliquidators.com in
9 Virginia responded by assuring Plaintiff Balero that "Lumber Liquidators' products are also
10 independently tested to ensure compliance with the stringent California Air Resource Board (CARB)
11 emission standards . . . all of the flooring we sell meets the highest quality environmental standards."
12 On or about October 17, 2014, however, a sample of the laminate wood flooring product that Plaintiff
13 Balero purchased from Defendant was tested by a certified laboratory using CARB testing
14 methodology. The results of the lab test show that Plaintiff Balero's laminate flooring product emits
15 formaldehyde gas at a level exceeds both the CARB Phase 1 and 2 limits for formaldehyde emissions
16 from Thin MDF.

17 52. Knowing that his flooring exceeds the CARB formaldehyde emission limit, Plaintiff
18 Balero intends to have his flooring replaced.

19 53. If Lumber Liquidators' laminate wood flooring becomes CARB compliant, Plaintiff
20 Balero would likely purchase it in the future.

21 **Plaintiff Michael Ballerini**

22 54. On January 11, 2014, Plaintiff Michael Ballerini purchased 8 mm Dream Home Nirvana
23 Royal Mahogany Laminate Flooring at a Lumber Liquidators store located in Albany, California. On
24 information and belief, the flooring was produced at the laminate mill in China called Jiangsu Beier
25 Decoration Materials with the MDF supplied by Shandong Heyou.

26 55. At the time that Plaintiff Ballerini purchased this laminate wood flooring, Lumber
27 Liquidators falsely represented that the product was compliant with CARB standards for formaldehyde
28 emissions. At the time of the purchase, Lumber Liquidators also failed to inform Plaintiff Ballerini

1 that the laminate wood flooring product he purchased actually exceeded the CARB formaldehyde
2 emission limit and that formaldehyde is a chemical known to the State of California to cause cancer.
3 Plaintiff Ballerini relied on Lumber Liquidators' misrepresentations and/or omissions regarding
4 compliance with CARB formaldehyde emission standards when deciding to purchase the laminate
5 wood flooring products and, as a result, paid Lumber Liquidators for products he would not have
6 otherwise purchased.

7 56. In August or September 2014, Plaintiff Ballerini called Lumber Liquidators to ask about the
8 safety of his flooring. On September 15, 2014, Matthew@lumberliquidators.com in Virginia
9 responded by assuring Plaintiff Ballerini that his "laminate floors are perfectly safe and are tested by
10 our own company and third party companies as well." On or about October 17, 2014, however, a
11 sample of the laminate wood flooring product that Plaintiff Ballerini purchased was tested by a
12 certified laboratory using CARB testing methodology. The results of the lab test show that Plaintiff
13 Ballerini's laminate flooring product emits formaldehyde gas at a level that exceeds both the CARB
14 Phase 1 and 2 limits for formaldehyde emissions from Thin MDF.

15 57. Plaintiff Ballerini would not have purchased this flooring if he knew it emitted unlawful
16 levels of formaldehyde.

17 58. If Lumber Liquidators' laminate wood flooring becomes CARB compliant, Plaintiff
18 Ballerini would likely purchase it in the future.

19 **Plaintiff Lisa Miller**

20 59. On May 26, 2012 and again on February 26, 2014, Plaintiff Lisa Miller purchased 12
21 mm Dream Home Ispiri America's Mission Olive Laminate Flooring at a Lumber Liquidators store
22 located in Concord/Pacheco, California. On information and belief, the flooring was produced at the
23 laminate mill in China called Changzhou OPLS Decoration, with the MDF supplied by Shandong
24 Heyou.

25 60. Before purchasing the product in 2012, Plaintiff Miller visited Lumber Liquidators'
26 website and read that they were an environmentally-friendly company. She relied on that
27 representation when purchasing her laminate flooring from Lumber Liquidators. When she received
28 her laminate wood flooring, she observed that the packaging stated that the flooring was CARB

1 compliant for formaldehyde. If the package had stated that the flooring product was not compliant for
2 formaldehyde, she would have returned it and not installed it in her home. Partly because of the
3 CARB compliance statement on the packaging of the laminate wood flooring she purchased in 2012,
4 Plaintiff Miller purchased more of the same flooring in 2014.

5 61. At the time of both of Plaintiff Miller's purchases, Lumber Liquidators falsely
6 represented that the laminate wood flooring product Plaintiff Miller purchased was compliant with
7 CARB formaldehyde emission standards. At the time of the purchases, Lumber Liquidators also failed
8 to inform Plaintiff Miller that the laminate wood flooring product she purchased actually exceeded the
9 CARB formaldehyde emission limit and that formaldehyde is a chemical known to the State of
10 California to cause cancer. Plaintiff Miller relied on Lumber Liquidators'
11 misrepresentations/omissions regarding compliance with CARB formaldehyde emission standards
12 when deciding to purchase the laminate wood flooring products and, as a result, paid Lumber
13 Liquidators for products she would not have otherwise purchased.

14 62. On or about October 17, 2014, a sample of the laminate wood flooring product that
15 Plaintiff Miller purchased in 2012 was tested by a certified laboratory using CARB testing
16 methodology. On or about November 3, 2014, a sample of the laminate wood flooring product that
17 Plaintiff Miller purchased in 2014 was also tested by a certified laboratory using CARB testing
18 methodology. The results of the lab tests show that Plaintiff Miller's 2012 laminate flooring product
19 emits formaldehyde gas at a level that exceeds the CARB Phase 2 limit for formaldehyde emissions
20 from MDF, and that the 2014 product exceeds the CARB Phase 2 limit for MDF by more than three
21 times.

22 63. On October 23, 2014, Plaintiff Miller emailed Tom Sullivan at Lumber Liquidators
23 asking for a refund of her laminate wood flooring and installation costs because of unlawful levels of
24 formaldehyde present in the flooring. On October 27, 2014, Brian Pullin of Lumber Liquidators
25 responded to Plaintiff Miller stating, "Lumber Liquidators' products are also independently tested to
26 ensure compliance with the stringent California Air Resource Board (CARB) emission standards,
27 which we apply to products sold nationwide."
28

1 **Numerosity of Class**

2 69. The potential members of the class as defined are so numerous that joinder of all Class
3 Members is impracticable. Although the precise number of such consumers is unknown, Plaintiffs
4 believe that there are thousands of class members. The exact number is easily ascertained from
5 Lumber Liquidators' sales records, which are presently within Lumber Liquidators' control.

6 **Existence and Predominance of Common Questions of Fact and Law**

7 —70.— There are questions of law and fact common to the class that predominate over any
8 questions affecting only individual members of the class, including without limitation, whether, as
9 alleged herein, (a) Lumber Liquidators' laminate wood flooring products sold in California exceed the
10 CARB limit; (b) Lumber Liquidators' representation in package labeling and advertising that its
11 laminate wood flooring products comply with the CARB limit was false; (c) Lumber Liquidators made
12 the false statement about CARB compliance to the entire class; (d) Lumber Liquidators failed to
13 disclose material information regarding the emission of unlawful levels of formaldehyde from its
14 laminate wood flooring products; (e) Lumber Liquidators' representations that its laminate wood
15 flooring products comply with the CARB limit have a capacity, likelihood or tendency to deceive or
16 confuse the public; (f) Lumber Liquidators' representations that its laminate wood flooring products
17 comply with the CARB limit are misleading; (g) Lumber Liquidators' representations that its laminate
18 wood flooring products comply with the CARB limit are likely to deceive reasonable consumers;
19 (h) Lumber Liquidators' representations that its laminate wood flooring products comply with the
20 CARB limit are material, as judged by an objective standard; (i) Lumber Liquidators' representations
21 that its laminate wood flooring products comply with the CARB limit constitute unlawful business
22 practices under the Unfair Competition Law, California Business & Professions Code § 17200, *et seq.*
23 (“UCL”); (j) Lumber Liquidators' representations that its laminate wood flooring products comply
24 with the CARB limit constitute unfair business practices under the UCL; (k) Lumber Liquidators'
25 representations that its laminate wood flooring products comply with the CARB limit constitute
26 fraudulent business practices under the UCL; (l) Lumber Liquidators' representations that its laminate
27 wood flooring products comply with the CARB limit violate the California Consumer Legal Remedies
28 Act, California Civil Code § 1750, *et seq.* (“CLRA”); (m) Lumber Liquidators' representations that its

1 laminate wood flooring products comply with the CARB limit violate the California False Advertising
2 Law, California Business and Professions Code § 17500 *et seq.* (“FAL”); (n) Lumber Liquidators’ sale
3 of laminate wood flooring products that fail to comply with the CARB limit constitutes an unlawful
4 business practice within the meaning of the UCL; (o) Lumber Liquidators’ sale of laminate wood
5 flooring products that fail to comply with the CARB limit violates the CLRA; (p) monetary relief can
6 be calculated based on Lumber Liquidators’ sales figures and an average retail sales price for the
7 product; and (q) Lumber Liquidators’ representations that its laminate wood flooring products comply
8 with the CARB level constitute a breach of express warranty pursuant to California Commercial Code
9 § 2313. Resolution of these questions, which are common to all class members, will generate common
10 answers that are likely to drive the resolution of this action.

11 **Typicality**

12 71. The claims of the Plaintiffs are typical of the claims of the Class they seek to represent.
13 Plaintiffs and Class Members have purchased laminate wood flooring products from Lumber
14 Liquidators that were advertised as compliant with CARB standards, but instead emit formaldehyde
15 gas at levels that exceed the CARB limit.

16 72. Plaintiffs and all Class Members were subjected to the same violations of their rights
17 under California law by Lumber Liquidators and have suffered damages, including the cost of their
18 flooring purchases resulting from Defendant’s wrongful conduct, and the cost of installation of the
19 unlawfully sold flooring products. In addition, Plaintiffs and the Class Members are entitled to
20 injunctive and equitable relief, as permitted by law, because Defendant’s violations of state statutes
21 have harmed the Class Members in a concrete and particular way, the violations are ongoing, and harm
22 the public interest, especially when compared to Defendant’s competitors who comply with the law.

23 **Adequacy of Representation**

24 73. Each of the Named Plaintiffs, Joseph Michael Balero, Michael Ballerini, and Lisa
25 Miller, will fairly and adequately represent and protect the interests of the Class Members. The
26 interests of Plaintiffs and Plaintiffs’ counsel are not in conflict with those of the Class Members.
27 Plaintiffs and Plaintiffs’ counsel will prosecute this action vigorously on behalf of the Class Members.
28

1 Plaintiffs' counsel are competent and experienced in litigating large class actions, environmental
2 actions and other complex litigation matters.

3 **Superiority of Class Action**

4 74. A class action is superior to other available means for the fair and efficient adjudication
5 of this controversy. Each Class Member is entitled to restitution of the price of the laminate wood
6 flooring product that he or she purchased that failed to comply with the CARB limit and should not
7 have been sold in California, and the cost of installation and removal of the unlawfully sold flooring
8 products. Each Class Member has also been damaged and is entitled to recovery because Lumber
9 Liquidators falsely advertised that their flooring was CARB compliant and/or omitted to tell
10 consumers that their flooring products emitted unlawful levels of formaldehyde. The restitution due
11 and damages suffered by individual Class Members are small compared to the expense and burden of
12 individual prosecution of this litigation. Individual plaintiffs may lack the financial resources to
13 vigorously prosecute a lawsuit against Defendant to recover damages stemming from Defendant's
14 unfair and unlawful practices. In addition, class litigation is superior because it will obviate the need
15 for unduly duplicative litigation that might result in inconsistent judgments about the legality of
16 Defendant's sales and advertising practices. Further, a class action is superior as Defendant has acted
17 in a manner that applies generally to the class, so that final injunctive relief and corresponding
18 declaratory relief are appropriate respecting the class as a whole, thereby making it desirable to
19 concentrate the litigation of class members' claims in a single forum.

20 **FIRST CAUSE OF ACTION**

21 **— Violation of California Business and Professions Code § 17200, et seq.,**
22 **Unlawful Business Acts and Practices**

23 75. Plaintiffs re-allege and incorporate all paragraphs above as though fully set forth herein.

24 76. California Business and Professions Code § 17200, et seq. authorizes courts to make
25 any orders necessary to prevent any act of "unfair competition," which includes "any unlawful
26 business act or practice." Cal. Bus. & Prof. Code § 17200, 17203.

27 77. Throughout the Class Period, Defendant has engaged in unlawful business acts and/or
28 practices by selling and/or distributing laminate wood flooring products in California that exceed the

1 CARB limit for formaldehyde emissions from composite wood products set forth in Title 17 of the
2 California Code of Regulations, § 93120.2(a). Defendant's sale and distribution of laminate wood
3 flooring products in California that exceed the CARB standard for formaldehyde emissions violates
4 Code Cal. Regs. tit. 17, §§ 93120-93120.12.

5 78. Throughout the Class Period, Defendant has engaged in unlawful business acts and/or
6 practices by advertising to California consumers through promotional materials and with labeling on
7 laminate wood flooring products that states that the products are CARB compliant when in fact they
8 were not. Defendant has further engaged in unlawful business acts and practices by falsely
9 representing that the laminate wood flooring products it distributes and sells in California have been
10 certified by independent entities as compliant with CARB formaldehyde standards. Defendant further
11 engaged in unlawful business acts and/or practices by not informing consumers that Defendant's
12 laminate wood flooring products sold in California emit formaldehyde at levels that exceed the
13 formaldehyde emission limit set forth in the CARB standards. These actions of Defendant were
14 misleading and deceptive, and Plaintiffs and Class Members reasonably relied upon Defendant's
15 statements in purchasing Defendant's laminate wood flooring products. Defendant's actions therefore
16 violate the False Advertising Law, California Business & Professions Code §§ 17500, *et seq.* and the
17 Consumer Legal Remedies Act, California Civil Code §§ 1750, *et seq.*, as further set forth in the
18 Fourth and Fifth Causes of Action, below.

19 79. Throughout the Class Period, Defendant has also has engaged in unlawful business acts
20 and/or practices by making untrue, deceptive, or misleading environmental marketing claims on the
21 labels of its laminate wood flooring products' packaging and on promotional materials including pages
22 of the Lumber Liquidators' website, in violation of California's "Greenwashing" Statute, Cal. Bus. &
23 Prof. Code § 17580.5. Such claims include, but are not limited to: overstating the environmental
24 attributes of the laminate wood flooring products it distributes in California, failing to substantiate that
25 the laminate wood flooring products it distributes in California have received third-party certification
26 of CARB compliance, and misrepresenting explicitly or through implication that the laminate wood
27 flooring Defendant distributes in California is non-toxic. *See* Cal. Bus. & Prof. Code § 17580.5(a).

1 80. Throughout the Class Period, Defendant has also has engaged in unlawful business acts
2 and/or practices by expressly warranting on every package of laminate wood flooring products that it
3 distributes and sells in California, as well as in promotional materials and product invoices, that the
4 products comply with CARB formaldehyde standards and all other applicable laws and regulations
5 when they do not. This express warranty also appears on Defendant's website, and product invoices
6 and instruction materials. Defendant's breach of this express warranty violates California state
7 warranty law, California Commercial Code § 2313.

8 81. As a direct result of Defendant's unlawful business acts and/or practices, Plaintiffs and
9 Class Members suffered injury in fact and lost money or property.

10 82. Plaintiffs are informed and believe that Lumber Liquidators engaged in the same or
11 similar unlawful business acts or practices against the Class Members described herein and that
12 Lumber Liquidators' conduct caused harm to the Class Members.

13 83. Accordingly, Plaintiffs, on behalf of themselves and all others similarly situated, seek
14 restitution, injunctive relief against Defendant in the form of an order prohibiting Defendant from
15 engaging in the alleged misconduct described herein, and other relief as specifically prayed for herein.

16 **SECOND CAUSE OF ACTION**

17 **Violation of California Business and Professions Code § 17200, *et seq.*,
18 Fraudulent Business Acts and Practices**

19 84. Plaintiffs re-allege and incorporate all paragraphs above as though fully set forth herein.

20 85. California Business and Professions Code § 17200, *et seq.* authorizes courts to make
21 any orders necessary to prevent any act of "unfair competition," which includes "any fraudulent
22 business act or practice." Cal. Bus. & Prof. Code § 17200, 17203.

23 86. Throughout the Class Period, Defendant has sold laminate wood flooring products in
24 California that exceed the CARB standard for formaldehyde emissions from composite wood products
25 despite the fact that Defendant advertises the products as CARB compliant. *See* Code Cal. Regs. tit.
26 17, §§ 93120-93120.12.

27 87. Defendant has engaged in fraudulent business acts and practices by advertising to
28 California consumers through promotional materials and with labeling on laminate wood flooring

1 products that state that the products are CARB compliant when in fact they are not. Defendant further
2 engaged in fraudulent business acts and practices by not informing consumers that Defendant's
3 laminate wood flooring products sold in California emit formaldehyde at levels that exceed the
4 emission limit set forth in the CARB standards.

5 88. Defendant's conduct is fraudulent in that customers in California are likely to be
6 deceived by Defendant's misrepresentations that the laminate wood flooring products they have sold
7 and continue to sell in California are compliant with CARB standards.

8 89. Plaintiffs and Class Members relied on Defendant's misrepresentations.

9 90. As a direct result of Defendant's fraudulent business acts and/or practices, Plaintiffs and
10 Class Members suffered injury in fact and lost money or property.

11 91. Plaintiffs are informed and believe that Lumber Liquidators engaged in the same or
12 similar fraudulent business acts against the Class Members described herein and that Lumber
13 Liquidators' conduct caused harm to the Class Members.

14 92. Accordingly, Plaintiffs, on behalf of themselves and all others similarly situated, seek
15 restitution, injunctive relief against Defendants in the form of an order prohibiting Defendant from
16 engaging in the alleged misconduct described herein, and other relief as specifically prayed for herein.

17 **THIRD CAUSE OF ACTION**

18 **Violation of California Business and Professions Code § 17200, et seq.,**
19 **Unfair Business Acts and Practices**

20 93. Plaintiffs re-allege and incorporate all paragraphs above as though fully set forth herein.

21 94. California Business and Professions Code § 17200, et seq. authorizes courts to make
22 any orders necessary to prevent any act of "unfair competition," which includes "any unfair business
23 act or practice." Cal. Bus. & Prof. Code § 17200, 17203.

24 95. Throughout the Class Period, Defendant has sold laminate wood flooring products in
25 California that exceed the CARB standard for formaldehyde emissions from composite wood products
26 despite the fact that Defendant's product labeling and promotional materials advertise the products as
27 CARB compliant. See Code Cal. Regs., tit. 17, §§ 93120-93120.12. In addition, Defendant has not
28

1 informed consumers that Defendant's laminate wood flooring products sold in California emit
2 formaldehyde at levels that exceed the emission limit set forth in the CARB standards.

3 96. Defendant's conduct is unfair in that it offends established public policy and/or is
4 immoral, unethical, oppressive, unscrupulous and/or substantially injurious to Plaintiffs and Class
5 Members. The harms to Plaintiffs and Class Members arising from Defendant's conduct outweigh any
6 legitimate benefit Defendant derived from the conduct. Defendant's conduct undermines and violates
7 the stated spirit and policies underlying the Consumer Legal Remedies Act, False Advertising Law,
8 and California state warranty laws alleged herein.

9 97. As a direct result of Defendant's unfair business acts and/or practices, Plaintiffs and
10 Class Members suffered injury in fact and lost money or property.

11 98. Plaintiffs are informed and believe that Lumber Liquidators engaged in the same or
12 similar unfair business acts against the Class Members described herein and that Lumber Liquidators'
13 conduct caused harm to the Class Members.

14 99. Plaintiffs and Class Members could not have reasonably avoided their injury because
15 they were affirmatively misled by Defendant that the laminate wood flooring products they purchased
16 complied with CARB standards and Defendant's misrepresentations are only discoverable through
17 product testing by a certified laboratory.

18 100. Accordingly, Plaintiffs, on behalf of themselves and all others similarly situated, seek
19 restitution, injunctive relief against Defendant in the form of an order prohibiting Defendant from
20 engaging in the alleged misconduct described herein, and other relief as specifically prayed for herein.

21 **FOURTH CAUSE OF ACTION**

22 **Violation of California Business and Professions Code § 17500, *et seq.***

23 101. Plaintiffs re-allege and incorporate all paragraphs above as though fully set forth herein.

24 102. Throughout the Class Period, Defendant engaged in unlawful and/or fraudulent conduct
25 under California Business & Professions Code §§ 17500, *et seq.* ("the False Advertising Law"), by
26 engaging in the sale of laminate wood flooring products, and publically disseminating various
27 advertisements that Defendant knew or reasonably should have known were untrue and misleading,
28 including that their laminate wood flooring products comply with CARB standards for formaldehyde.

1 emissions when they fail to meet these standards and falsely representing that the laminate wood
2 flooring products have been certified by independent entities as compliant with CARB formaldehyde
3 standards.

4 103. Defendant committed such violations of the False Advertising Law with actual
5 knowledge or knowledge fairly implied on the basis of objective circumstances.

6 104. Plaintiffs reasonably relied on Defendant's representations made in violation of
7 California Business and Professions Code §§ 17500, *et seq.*

8 105. As a direct result of Defendant's violations, Plaintiffs suffered injury in fact and lost
9 money.

10 106. Plaintiffs are informed and believe that Lumber Liquidators engaged in the same or
11 similar unlawful, unfair, and/or fraudulent business acts against the Class Members described herein
12 and that Lumber Liquidators' conduct caused harm to the Class Members.

13 107. Accordingly, Plaintiffs, on behalf of themselves and all others similarly situated, seek
14 restitution and injunctive relief against Defendant in the form of an order prohibiting Defendant from
15 engaging in the alleged misconduct described herein, and other relief as specifically prayed for herein.

16 **FIFTH CAUSE OF ACTION**

17 **Violation of California Consumer Legal Remedies Act, Cal. Civ. Code § 1750 *et seq.***

18 108. Plaintiffs incorporate by reference all the above allegations as if fully set forth herein.

19 109. Defendant is a "person" within the meaning of California Civil Code §§ 1761(c) and
20 1770, and provides "goods" within the meaning of Civil Code §§ 1761(a) and 1770. Defendant's
21 customers, including Plaintiffs and Class members, are "consumers" within the meaning of Civil Code
22 §§ 1761(d) and 1770. Each purchase of Defendant's laminate wood flooring products by Plaintiffs and
23 each Class member constitutes a "transaction" within the meaning of Civil Code §§ 1761(e) and 1770.

24 110. The Consumer Legal Remedies Act makes it unlawful for a company to:

- 25 a. Misrepresent the certification of goods. Cal. Civ. Code § 1770(a)(2)(3);
26 b. Represent that goods have characteristics or approval which they do not have.
27 Cal. Civ. Code § 1770(a)(5);
28

- 1 c. Represent that goods are of a particular standard, quality, or grade, if they are of
2 another. Cal. Civ. Code § 1770(a)(7);
3 d. Advertise goods with intent not to sell them as advertised. Cal. Civ. Code
4 § 1770(a)(9).

5 111. Throughout the Class Period, Defendant has violated these provisions by falsely
6 representing that their laminate wood flooring products comply with CARB standards for
7 formaldehyde emissions, when they fail to meet these standards; falsely representing that the laminate
8 wood flooring products have been certified by independent entities to comply with CARB
9 formaldehyde standards; and, failing to disclose to consumers that the flooring products emit
10 formaldehyde at unlawful levels.

11 112. Plaintiffs and Class Members reasonably relied on Defendant's misrepresentations.

12 113. As a direct and proximate result of Defendant's violations, Plaintiffs and Class
13 Members suffered injury in fact and lost money and/or property.

14 114. Concurrently with filing the original Complaint on December 11, 2014, Plaintiffs'
15 counsel mailed to Defendant, by certified mail, return receipt requested, the written notice required by
16 Civil Code § 1782(a). A true and correct copy of the notice was attached to the original Complaint and
17 is attached to this First Amended Complaint as Exhibit A.

18 115. Plaintiffs have filed concurrently herewith the declaration of venue required by Civil
19 Code § 1780(d).

20 116. Defendant's wrongful business practices constituted, and constitute, a continuing
21 course of conduct in violation of the California Consumer Legal Remedies Act because Defendant is
22 still representing that the flooring products have characteristics and qualifications which are false and
23 misleading, and has injured Plaintiffs and Class Members.

24 117. Pursuant to California Civil Code § 1780, Plaintiffs, on behalf of themselves and all
25 others similarly situated, seek restitution; actual, compensatory, consequential, and punitive damages;
26 and injunctive relief against Defendant in the form of an order prohibiting Defendant from engaging in
27 the alleged misconduct described herein, and other relief as specifically prayed for herein.
28

SIXTH CAUSE OF ACTION

Breach of Express Warranty, Cal. Uniform Com. Code § 2313

118. Plaintiffs re-allege and incorporate all paragraphs above as though fully set forth herein.

119. Throughout the Class Period, Lumber Liquidators has expressly warranted that its laminate wood flooring products comply with CARB formaldehyde standards and all other applicable laws and regulations.

120. Defendant's express warranty that its laminate wood flooring products comply with the CARB standards appears on every package of laminate wood flooring Defendant sells or has sold in California, including those sold to Plaintiffs and all Class Members. This express warranty also appears on Defendant's website, and product invoices and instruction materials.

121. Lumber Liquidators' warranties became part of the basis of the bargain in selling laminate wood flooring products to Plaintiffs and Class Members.

122. Lumber Liquidators breached these express warranties by selling, and/or distributing the laminate wood flooring products, which fail to comply with the CARB standards.

123. Plaintiffs and members of the Class paid money for the laminate wood flooring and paid to have the flooring installed in their homes, work, and other spaces. However, Plaintiffs and the members of the Class did not obtain the full value of the advertised products. If Plaintiffs and other members of the Class had known the true nature of the flooring products, that they emitted unlawful levels of a cancer-causing chemical, they would not have purchased the laminate wood flooring products.

124. As a result of this breach, Plaintiffs and the members of the Class suffered injury and deserve to be compensated for the damages they suffered.

125. Plaintiffs and the Class are therefore entitled to recover compensatory damages, declaratory relief, and other relief as specifically prayed for herein.

SEVENTH CAUSE OF ACTION

Declaratory Relief

126. Plaintiffs incorporate by reference the foregoing allegations as if set fully herein.

1 127. Plaintiffs Balero, Ballerini, and Miller, on behalf of themselves and all others similarly
2 situated, contend that Defendants' sale of laminate wood flooring products in California do not comply
3 with the CARB standards. On information and belief, Defendant contends that its sale of laminate
4 wood flooring products in California complies with the CARB standards.

5 128. A judicial declaration is necessary and appropriate at this time in order that each of the
6 parties may know their respective rights and duties and act accordingly.

7 **PRAYER FOR RELIEF**

8 WHEREFORE, Plaintiffs, on behalf of themselves and all Class Members, seek the following
9 relief against Defendant:

10 A. An order certifying this action as a class action under California Code of Civil
11 Procedure § 382, and defining the Class as requested herein;

12 B. A finding and declaration, pursuant to California Code of Civil Procedure § 1060, that
13 Defendant's policies and practices of labeling and advertising the laminate wood products it sells in
14 California as CARB compliant is unlawful pursuant to Title 17 of the California Code
15 Regulations, §§ 93120-93120.12;

16 C. A finding and declaration, pursuant to California Code of Civil Procedure § 1060, that
17 Defendant's policies and practices of distributing and/or selling laminate wood products in California
18 with formaldehyde emissions that violate the CARB standards is unlawful pursuant to Title 17 of the
19 California Code Regulations, §§ 93120-93120.12;

20 D. Injunctive relief prohibiting Defendant from continuing to distribute and/or sell
21 laminate flooring products that violate the CARB standards, pursuant to California Business and
22 Professions Code, §§ 17202 and 17203, and California Civil Code § 1780;

23 E. Restitution of all money and/or property that Plaintiffs and Class Members provided to
24 Defendant for the purchase and installation of Defendant's laminate wood flooring products that were
25 sold in violation of Title 17 of the California Code Regulations, §§ 93120-93120.12 and California
26 Business and Professions Code § 17200 *et seq.*;

27 F. Damages in an amount according to proof, including actual, compensatory, and
28 consequential damages incurred by Plaintiffs and Class Members pursuant to the Fifth and Sixth

1 Causes of Action;

2 G. Punitive damages in an amount according to proof, pursuant to the Fifth Cause of
3 Action.

4 H. Pre- and post-judgment interest on monetary damages and restitution pursuant to Civil
5 Code § 3287;

6 I. An award to Plaintiffs and Class Members of reasonable attorneys' fees and costs,
7 pursuant to California Civil Procedure Code § 1021.5, California Civil Code § 1780, and/or other
8 applicable law, to be paid by Defendant; and,

9 J. An award of such other and further relief as this Court may deem appropriate.


10 **DEMAND FOR JURY TRIAL**

11 Plaintiffs hereby demand trial by jury to the extent authorized by law.

12 Dated: January 12, 2015

Respectfully submitted,

13 GOLDSTEIN, BORGEN, DARDARIAN & HO

14 
15 Linda M. Dardarian

16 Attorneys for Plaintiffs

Exhibit A

Shareholders
David Borgen
Linda M. Dardarian
Laura L. Ho



Goldstein, Borgen,
Dardarian & Ho

Of Counsel
Barry Goldstein
Morris J. Baller

December 10, 2014

By Certified Mail, Return Receipt Requested

Corporation Service Company
dba CSC - Lawyers Incorporating Service
2710 Gateway Oaks Drive, Suite 150N
Sacramento, CA 95833
(Lumber Liquidators, Inc.'s Registered Agent for Service of Process)

Re: Notice of Violations of the Consumer Legal Remedies Act
California Civil Code § 1750 *et seq.*

Dear Addressee:

This notice is provided on behalf of Joseph Michael Balero, Michael Ballerini, Lisa Miller, and all others similarly situated, pursuant to California Civil Code § 1782, to inform you that Lumber Liquidators has employed methods and committed acts and practices in violation of the California Consumer Legal Remedies Act, California Civil Code § 1750 *et seq.* ("CLRA").

The facts establishing the violation are set out in the Complaint, attached as Exhibit A. The facts are generally as follows:

During the Class Period (from January 1, 2011 to the present), Lumber Liquidators has advertised and represented to California consumers that Chinese-made, laminate wood flooring products that Lumber Liquidators distributes and/or sells in California comply with strict formaldehyde emission standards promulgated by the California Air Resources Board ("CARB") and enumerated in California's Airborne Toxic Control Measure to Reduce Formaldehyde Emissions from Composite Wood Products ("CARB Regulations"). Cal. Code Regs. tit. 17, §§ 93120-93120.12. However, these advertisements and representations are false. Chinese-made laminate wood flooring products that Lumber Liquidators has sold and/or distributed in California since January 1, 2011 emit formaldehyde gas at levels that exceed the limits set forth in the CARB Regulations ("CARB standards"). Plaintiff Balero, Plaintiff Ballerini, and Plaintiff Miller relied on Lumber Liquidators' representations that its laminate wood flooring products are CARB compliant, and would not have purchased their flooring if they had known that their flooring emitted formaldehyde at unlawful levels. Plaintiffs were harmed by Lumber Liquidators' unlawful conduct in that they spent money on flooring that they would not have purchased, and incurred costs for installing flooring in their homes that they would not have installed without Lumber Liquidators' false advertising and/or misrepresentations.



Lumber Liquidators is violating the following specific provisions of Cal. Civ. Code § 1770:

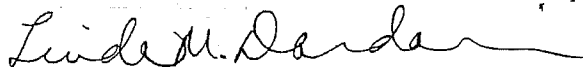
- Misrepresenting the certification of goods. Cal. Civ. Code § 1770(a)(2)(3);
- Representing that goods have characteristics or approval which they do not have. Cal. Civ. Code § 1770(a)(5);
- Representing that goods are of a particular standard, quality, or grade, if they are of another. Cal. Civ. Code § 1770(a)(7);
- Advertising goods with intent not to sell them as advertised. Cal. Civ. Code § 1770(a)(9).

On behalf of Plaintiffs and all other similarly situated consumers, and pursuant to Cal. Civ. Code § 1782(b) and (c), we hereby demand that, within 30 days of receipt of this notice, Lumber Liquidators immediately cease the above-described practices by taking the following actions:

- Cease advertising, labeling, and selling laminate wood flooring products in California that violate the CARB standards for formaldehyde emissions;
- Identify all other similarly situated consumers who have been subjected to these prohibited practices; and
- Restore to Plaintiffs, and all other similarly situated customers, the money they spent on purchasing and installing laminate wood flooring from Lumber Liquidators that violate the CARB standards for formaldehyde emissions.

Please contact me if you have any questions or would like to discuss this further.

Sincerely,



Linda M. Dardarian

LMD/kbm

Encls.

1 PROOF OF SERVICE

2 Case: *Balero, et al. v. Lumber Liquidators, Inc.*
3 Case No. _____

4 STATE OF CALIFORNIA)
5 COUNTY OF ALAMEDA) SS

6 I have an office in the county aforesaid. I am over the age of eighteen years and not a party to
7 the within entitled action. My business address is 300 Lakeside Drive, Suite 1000, Oakland,
8 California 94612.

8 I declare that on the date hereof I served a copy of

9 **NOTICE OF VIOLATIONS OF THE CONSUMER LEGAL REMEDIES ACT**

10 SEE SERVICE LIST, BELOW

11 **By U.S. Mail:** By placing a true copy of the document(s) listed above for collection and
12 mailing following the firm's ordinary business practice in a sealed envelope with postage
13 thereon fully prepaid for deposit in the United States mail at Oakland, California addressed
14 as set forth below.

13 **(State)** I declare under penalty of perjury under the laws of the State of California that the
14 foregoing is true and correct.

15 Executed at Oakland, California on December 10, 2014

16 *Jaqueline Thompson*
17 _____
18 Printed Name

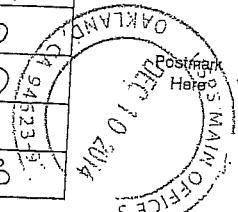
16 *Jaqueline*
17 _____
18 Signature

19 SERVICE LIST

20 Corporation Service Company
21 dba CSC - Lawyers Incorporating Service
22 2710 Gateway Oaks Drive, Suite 150N
23 Sacramento, CA 95833
24 (Lumber Liquidators, Inc.'s
25 Registered Agent for Service of Process)
26 (by Certified Mail, tracking number 7004 2510 0001 2722 3925)
27
28

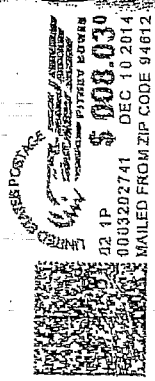
U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com
OFFICIAL USE

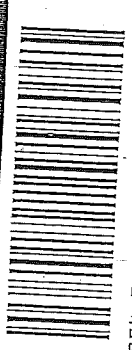
Postage	\$ 2.03	Postmark Here 
Certified Fee	3.30	
Return Receipt Fee (Endorsement Required)	2.70	
Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees	\$ 8.03	

Sent To Corporation Service Co.
 Street, Apt. No., or PO Box No. 2710 Gateway Oaks Dr. Ste 150N
 City, State, ZIP+4 Sacramento, CA 95833

PS Form 3800, June 2002 See Reverse for Instructions



7004 2510 0001 2722 3925



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Total Postage & Fees	\$ 8.03	

Sent To Corporation Service Co.
 Street, Apt. No., or PO Box No. 2710 Gateway Oaks Dr. Ste 150N
 City, State, ZIP+4 Sacramento, CA 95833

PS Form 3800, June 2002 See Reverse for Instructions



Goldst David
 Corporation
 dba CSC - Lawyers Incorporating Service
 2710 Gateway Oaks Drive, Suite 150N
 Sacramento, CA 95833

7004 2510 0001 2722 3925
 7004 2510 0001 2722 3925

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:
Corporation Service Company
dba CSC - Lawyers Incorporating Service
2710 Gateway Oaks Dr. Ste 150N
Sacramento, CA 95833

COMPLETE THIS SECTION ON DELIVERY

- A. Signature Agent
 Addressee
- B. Received by (Printed Name) C. Date of Delivery
- D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No
3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.
4. Restricted Delivery? (Extra Fee) Yes

2. Article Number (Transfer from service label) 7004 2510 0001 2722 3925

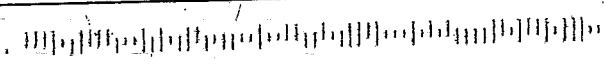
UNITED STATES POSTAL SERVICE



First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

• Sender: Please print your name, address, and ZIP+4 in this box •

Goldstein, Borgen, Dardarian & Ho ⁷⁴⁰
300 Lakeside Drive, Suite 1000
Oakland, CA 94612



SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Corporation Service Company
dba CSC - Chambers Incorporating Service
2710 Gateway Oaks Dr, Ste 150 N
Sacramento, CA 95833

2. Article Number
(Transfer from service label)

7004 2510 0001 2722 3925

COMPLETE THIS SECTION ON DELIVERY

A. Signature

Agent
 Addressee
X *Nicole Chambers*
B. Received by (Printed Name) C. Date of Delivery
Nicole Chambers

D. Is delivery address different from item 1? Yes
If YES, enter delivery address below: No
1515 12 2014

3. Service Type

- Certified Mail Express Mail
- Registered Return Receipt for Merchandise
- Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes