

1 Daniel C. Girard (State Bar No. 114826)
Eric H. Gibbs (State Bar No. 178658)
2 Adam E. Polk (State Bar No. 273000)
3 Steve A. Lopez (State Bar No. 300540)

GIRARD GIBBS LLP

4 601 California Street, 14th Floor
San Francisco, California 94108
5 Telephone: (415) 981-4800
6 Facsimile: (415) 981-4846
dcg@girardgibbs.com
7 ehg@girardgibbs.com
aep@girardgibbs.com
8 sal@girardgibbs.com

9 *[Additional counsel listed on signature page]*

10 *Attorneys for Plaintiffs*

11
12 **IN THE UNITED STATES DISTRICT COURT FOR THE**
13 **NORTHERN DISTRICT OF CALIFORNIA**

15 PETER PICARD and SHERRY LIGGINS,
16 individually and on behalf of all others similarly
situated,

17 Plaintiffs,

18 vs.

19 LUMBER LIQUIDATORS, INC.,
20 LUMBER LIQUIDATORS HOLDINGS, INC.,
LUMBER LIQUIDATORS LEASING, LLC, and
21 LUMBER LIQUIDATORS SERVICES, LLC,

22 Defendants.
23
24
25
26
27
28

Case No.

CLASS ACTION COMPLAINT

DEMAND FOR JURY TRIAL

CLASS ACTION COMPLAINT

1 Plaintiffs Peter Picard and Sherry Liggins, individually and on behalf of themselves and all
2 others similarly situated, allege the following against Defendants Lumber Liquidators, Inc., Lumber
3 Liquidators Holdings, Inc., Lumber Liquidators Leasing, LLC, and Lumber Liquidators Services, LLC
4 (collectively, “Lumber Liquidators”).

5
6 **SUMMARY OF THE CASE**

7 1. With 354 stores located in 46 states and Canada, Lumber Liquidators describes itself as
8 the largest specialty retailer of hardwood flooring in North America. In 2014 alone, Lumber Liquidators
9 sold over 310 million square feet of flooring through over 620,000 transactions, and earned over \$1
10 billion—nearly a 5% increase from 2013. Lumber Liquidators has accomplished such growth by
11 expanding their gross profit margins and cutting costs to a remarkable degree.

12 2. Lumber Liquidators’ cost cutting steps have come at the expense of consumers, including
13 Plaintiffs and Class members. According to recent testing performed by at least three accredited
14 laboratories, Lumber Liquidators’ Chinese-manufactured laminate flooring contains toxic levels of
15 formaldehyde—a poisonous chemical that the United States National Toxicology Program and Europe’s
16 International Agency for Research on Cancer classify as a human carcinogen. In one series of tests, 30
17 out of 31 boxes of Lumber Liquidators’ laminate flooring contained excessive levels of formaldehyde,
18 with some levels being close to 20 times above the level that is permitted to be sold.

19 3. Lumber Liquidators deliberately deceived its customer base about the safety of its
20 laminate flooring. Although every box of Lumber Liquidators laminate claims compliance with the
21 standards of the California Air Resources Board (“CARB”), the laminate produced in China does not
22 meet these requirements. Despite adverse test results and a recent hidden camera exposé that shows
23 Lumber Liquidators manufacturers admitting that Lumber Liquidators laminate flooring is not CARB
24 compliant, Tom Sullivan—chairman and founder of Lumber Liquidators—continues to represent to the
25 public that “all of our products, are 100% safe.”¹

26 4. To cut costs and increase its gross margins, Lumber Liquidators (and the entities in its
27 supply chain that it controlled and oversaw) jeopardized the health of Plaintiffs and Class members. As

28 ¹ Lumber Liquidators Holdings, Inc., Current Report (Form 8-K), (March 2, 2015).

1 one industry insider explained—“[f]ormaldehyde is used as a cheap glue in the making of laminate and
2 engineered wood floors. If you jack up the amount of resin, it allows you to basically take your
3 production rate on your press and increase it by 50 percent, so instead of making a million panels you’ll
4 make a million and a half panels.”²

5 5. Lumber Liquidators knows that typical consumers cannot discern that the affected
6 laminate flooring contains toxic levels of formaldehyde and that Plaintiffs and Class members would not
7 have purchased such flooring had Lumber Liquidators disclosed that it is not CARB compliant. Lumber
8 Liquidators’ conduct thus constitutes a deceptive business practice, false advertising, and negligence.
9 Plaintiffs and the proposed Class of laminate flooring purchasers (as further defined below) are therefore
10 entitled to monetary damages—including exemplary damages—and injunctive relief, including a full
11 return of the purchase price and installation costs.

12 **PARTIES**

13 6. Plaintiff Peter Picard is a citizen and resident of Hercules, California.

14 7. Plaintiff Sherry Liggins is a citizen and resident of Mays Landing, New Jersey.

15 8. Defendant Lumber Liquidators Holdings, Inc. is a Delaware corporation with its principal
16 place of business at 3000 John Deere Road, Toano, Virginia, 23168.

17 9. Defendant Lumber Liquidators, Inc. is a Delaware corporation with its principal place of
18 business at 3000 John Deere Road, Toano, Virginia, 23168.

19 10. Defendant Lumber Liquidators Leasing, LLC is a Delaware limited liability company
20 with its principal place of business at 3000 John Deere Road, Toano, Virginia, 23168.

21 11. Defendant Lumber Liquidators Services, LLC is a Delaware limited liability company
22 with its principal place of business at 3000 John Deere Road, Toano, Virginia, 23168.

23 12. Lumber Liquidators Holdings, Inc. and its subsidiaries operate as a single business
24 segment, with its call center, website and customer service network supporting its retail store operations.
25 Lumber Liquidators conducts substantial business in the state of California. There are 354 Lumber
26 Liquidators stores in the United States and 38 in California alone, representing Lumber Liquidators’

27 ² Matthew Handley, *Dark Days Ahead for Lumber Liquidators*, Seeking Alpha (March 4, 2015),
28 <http://seekingalpha.com/article/2971886-dark-days-ahead-for-lumber-liquidators> (last visited March 26,
2015).

1 largest United States presence. California is an integral piece of Lumber Liquidators' supply chain as its
2 500,000 square foot primary distribution center for the west coast is located in California.

3 **JURISDICTION AND VENUE**

4 13. This Court has subject matter jurisdiction pursuant to the Class Action Fairness Act, 28
5 U.S.C. § 1332(d), because at least one Class member is of diverse citizenship from Defendants; there are
6 more than 100 Class members; and the aggregate amount in controversy exceeds \$5,000,000, exclusive
7 of interest and costs.

8 14. The Court has personal jurisdiction over Defendants because they conduct substantial
9 business in this District.

10 15. Venue is proper in this District under 28 U.S.C. § 1391 because Defendants reside in this
11 District and a substantial part of the events and omissions giving rise to Plaintiffs' claims occurred here.

12 **INTRADISTRICT ASSIGNMENT**

13 16. Assignment is proper to the Oakland division of this District under Local Rule 2(c)-(d),
14 as a substantial part of the events or omissions which give rise to the claim occurred in Alameda County.

15 **FACTUAL ALLEGATIONS**

16 **Lumber Liquidators, Its Competitors, and the Importance of Laminate Flooring to Its Business**

17 17. Lumber Liquidators conducts business throughout the United States, operating 352 total
18 stores. Lumber Liquidators describes itself as "the largest specialty retailer of hardwood flooring in
19 North America." It offers its customers a "Value Proposition," stating "[o]ur retail prices in each
20 merchandise category are generally lower than our competitors. . . . We are able to maintain these prices
21 by sourcing proprietary products directly from the mill"³

22 18. Lumber Liquidators' top three competitors are Home Depot, Lowe's, and Stock Building.
23 As of fiscal 2013, Lumber Liquidators beat each of these competitors' gross margins (net sales minus
24 the cost of goods) by between 13% and 20%. It did so by paying substantially less than its competitors
25 for its flooring materials, including laminate flooring, which constituted 38% of its 2014 net sales in
26 combination with bamboo, cork, and vinyl plank.

27 _____
28 ³ Lumber Liquidators Holdings, Inc., Annual Report (Form 10-K), at 2 (Feb. 25, 2015).

1 19. Lumber Liquidators describes its “proprietary” laminate flooring as “typically
2 constructed with a high-density fiber board core, inserted between a melamine laminate backing and
3 high-quality photographic paper displaying an image of wood with a ceramic finish, abrasion resistant
4 laminate top.”⁴

5 20. To save on the cost of its laminate flooring—a key product for its business—and to
6 increase its gross margins, Lumber Liquidators contracts with certain mills in China to manufacture
7 much of its laminate flooring.

8 21. Lumber Liquidators controls and directs its supply chain, which it represents “is wholly
9 focused on delivering our complete assortment of products to our customers more timely than our
10 competitors.”⁵ In addition to distribution centers in California and Virginia, Lumber Liquidators also
11 leases a third party consolidation center in China to “break bulk shipments from Chinese mills into
12 quantities that can be sent directly to our store locations.”⁶

13 22. Lumber Liquidators follows a “direct sourcing model”—it states that it sources directly
14 from mills to offer “high-quality proprietary products”—including its proprietary laminate flooring—at
15 a lower cost than its competitors. Lumber Liquidators represents that it has:

16
17 strong relationships with mills around the world where the significance of our scale,
18 breadth of assortment and liquidity allow for both higher quality and lower cost. We
19 believe our collaborative relationship enhances the mills’ productivity, yield, and
20 financial flexibility such that we access lower net costs than our competitors.⁷

21
22 23. Regarding quality control at such mills, Lumber Liquidators represents that it sets
23 “demanding specifications for product quality and our own quality control and assurance teams are on-
24 site at certain mills, coordinating inspection and assurance procedures.” It purportedly invests
25 “significant resources” to design and produce products of the “highest quality” and issues its own

26 ⁴ *Id.* at 4.

27 ⁵ *Id.* at 5.

28 ⁶ *Id.*

⁷ *Id.* at 3.

1 “proprietary brands”—like the laminate flooring at issue in this case—to “allow us greater control over
2 product design and production, which we monitor through an expansive network of experienced quality
3 control and assurance professionals.”⁸

4 24. Despite its representations, as of September 2013, Lumber Liquidators employed only 60
5 people internationally to perform such quality control across its approximately 130 domestic and
6 international mills.

7 25. In the case of its proprietary Chinese-manufactured laminate flooring, Lumber
8 Liquidators’ quality control was lacking, resulting in Plaintiffs and Class members purchasing toxic
9 laminate flooring. According to a recent report by *60 Minutes*, there are likely “tens of thousands of
10 households in California that have installed Lumber Liquidators Chinese laminates that may exceed
11 formaldehyde standards.”⁹ The toxic flooring poses a serious and imminent health risk to Lumber
12 Liquidators’ customers—including Plaintiffs and Class Members. And this crisis has caused some
13 analysts to question whether Lumber Liquidators intentionally sacrificed quality control to artificially
14 boost its gross margins.

15 26. This is not the first environmental issue that Lumber Liquidators caused in recent years.
16 In September 2013, federal agents raided Lumber Liquidators’ offices to investigate claims that the
17 company was illegally sourcing its wood. Lumber Liquidators has now disclosed that it could face
18 criminal charges based on allegations that its Chinese suppliers harvested millions of square feet of
19 wood from the protected habitat of the Siberian White Tiger—an endangered species.

20 **Dangers of Formaldehyde and the CARB Standards for Formaldehyde in Laminate Flooring**

21 27. The Agency for Toxic Substances & Disease Registry describes formaldehyde as “a
22 nearly colorless gas with a pungent, irritating odor even at very low concentrations.” Results of
23 exposure include headaches and minor irritation at levels below the odor threshold—0.5-1 parts per
24 million (“ppm”). But people can become sensitized to the odor and sustained exposure can cause
25 rhinitis, dyspnea, severe mucous membrane irritation, burning, lacrimation, and lower respiratory effects

26 ⁸ *Id.* at 2-3.

27 ⁹ Anderson Cooper, *Lumber Liquidators Linked to Health and Safety Violations*, *60 Minutes* (March 1,
28 2015), <http://www.cbsnews.com/news/lumber-liquidators-linked-to-health-and-safety-violations/> (last
visited March 30, 2015).

1 such as bronchitis, pulmonary edema, and pneumonia. Because formaldehyde vapors are slightly
2 heavier than air, they can result in asphyxiation in enclosed or low-lying areas or areas with poor
3 ventilation.

4 28. Formaldehyde is also a known human carcinogen. According to the National Cancer
5 Institute, formaldehyde is classified as a cancer-causing substance by the International Agency for
6 Research on Cancer, the Environmental Protection Agency (“EPA”), and the National Toxicology
7 Program—an interagency program of the Department of Health and Human Services. Research studies
8 dating back to 1980 demonstrate that formaldehyde exposure is associated with nasopharyngeal cancer
9 and leukemia.

10 29. The health risks presented by formaldehyde are exacerbated in children, who demonstrate
11 an increased risk of developing asthma and other adverse health effects from exposure to the chemical.
12 According to one report about increased levels of formaldehyde in Lumber Liquidators’ products,
13 “children are featured prominently in Lumber Liquidators’ ads and the company likes to promote the
14 donation of flooring they make to Habitat for Humanity, Ronald McDonald House charities, schools,
15 and community centers.”¹⁰

16 30. In California, formaldehyde has been listed as a carcinogen since 1988 and a toxic air
17 contaminant with no safe level of exposure since 1992.

18 31. The CARB approved the Airborne Toxic Control Measure to Reduce Formaldehyde
19 Emissions from Composite Wood Products in April 2007. The formaldehyde emission standards
20 became effective in January 2009 and set decreasing limits in two phases. Cal. Code Regs., tit. 17, §
21 93120.2(a).

22 32. The CARB regulations apply to laminate products, including laminate flooring. Cal.
23 Code Regs., tit. 17, § 93120.2(a).

24 33. The CARB Phase 1 Emission Standards for medium density fiberboard (“MDF”) and
25 Thin MDF (MDF with a maximum thickness of 8 mm) limited formaldehyde emissions to 0.21 ppm
26 beginning on January 1, 2009. Since January 1, 2011, the Phase 2 MDF Emission Standard requires
27 MDF flooring products with a density greater than 8 mm to emit no more than 0.11 ppm of

28 ¹⁰ *Id.*

1 formaldehyde. Beginning on January 1, 2012, Thin MDF flooring products must emit no more than
2 0.13 ppm of formaldehyde. Cal. Code Regs., tit. 17, 93120.2(A).¹¹

3 34. It is illegal to sell laminate flooring in California that exceeds the CARB limits.

4 **The Affected Laminate Flooring**

5 35. Lumber Liquidators supplied and sold certain laminate flooring products that contained
6 toxic levels of formaldehyde in excess of the CARB limits to Plaintiffs and Class members, exposing
7 them to significant and imminent health risks.

8 36. According to testing performed by at least three accredited laboratories, at least the
9 following laminate flooring products contain excessive formaldehyde levels:

- 10 • 8 mm Bristol County Cherry Laminate Flooring
- 11 • 8 mm Dream Home Nirvana French Oak Laminate Flooring
- 12 • 12 mm Dream Home Kensington Manor Antique Bamboo Laminate Flooring
- 13 • 12 mm Dream Home St. James Oceanside Plank Bamboo Laminate Flooring
- 14 • 12 mm Dream Home Kensington Manor Warm Springs Chestnut Laminate Flooring
- 15 • 15 mm Dream Home St. James Sky Lakes Pine Laminate Flooring
- 16 • 12 mm Dream Home Inspiri Chimney Tops Smoked Oak Laminate Flooring
- 17 • 12 mm Dream Home Kensington Manor Imperial Teak Laminate Flooring
- 18 • 12 mm Dream Home St. James Vintner's Reserve Laminate Flooring
- 19 • 12 mm Dream Home Kensington Manor Cape Doctor Laminate Flooring
- 20 • 12 mm St. James Cumberland Mountain Oak Laminate Flooring
- 21 • 12 mm Dream Home Inspiri Americas Mission Olive Laminate Flooring
- 22 • 12 mm Dream Home Kensington Manor Glacier Peak Poplar Laminate Flooring
- 23 • 12 mm Dream Home Kensington Manor Golden Teak Laminate Flooring
- 24 • 12 mm Dream Home Kensington Manor Handscraped Imperial Teak Laminate Flooring
- 25 • 12 mm Dream Home Kensington Manor Handscraped Summer Retreat Teak Laminate Flooring
- 26 • 12 mm Dream Home Kensington Manor Sandy Hills Hickory Laminate Flooring
- 27 • 12 mm Dream Home Kensington Manor Tanzanian Wenge Laminate Flooring

28 ¹¹ Hereinafter referred to as the "CARB limits."

- 1 • 8 mm Dream Home Nirvana Royal Mahogany Laminate Flooring
- 2 • 12 mm Dream Home St. James Blacksburg Barn Board Laminate Flooring;
- 3 • 12 mm Dream Home St. James Brazilian Koa Laminate Flooring
- 4 • 12 mm Dream Home St. James Golden Acacia Laminate Flooring
- 5 • 12 mm Dream Home Ispiri Poplar Forest Oak Laminate Flooring
- 6 • 12 mm Dream Home Kensington Manor Fumed African Ironwood Laminate Flooring
- 7 • 12 mm Dream Home St. James African Mahogany Laminate Flooring
- 8 • 12 mm Dream Home St. James Chimney Rock Charcoal Laminate Flooring
- 9 • 12 mm Dream Home St. James Nantucket Beech Laminate Flooring

10 37. *60 Minutes* tested thirty-one boxes of laminate flooring purchased from Lumber
11 Liquidators, including some of the above-listed products. Two accredited laboratories, Hardwood
12 Plywood and Veneer Association (“HPVA”) Laboratories and Benchmark International, tested the
13 laminate for compliance with standards set by CARB and the California Department of Public Health.
14 Of the thirty-one boxes tested, only one complied with formaldehyde emissions standards and some
15 were thirteen times the California limit. Both laboratories told *60 Minutes* they had never seen
16 formaldehyde levels as high. The worst sample emitted a concentration that the EPA has cited as
17 “polluted indoor conditions.”¹²

18 38. Two other accredited laboratories performed fifty separate tests on some of the laminate
19 products listed above, including test methods developed by the American Society for Testing and
20 Materials. This testing also establishes that Lumber Liquidators’ Chinese-produced laminate flooring
21 contains formaldehyde that exceeds the CARB limits by a significant margin.

22 39. The list of affected laminate flooring continues to grow. And because of the Lumber
23 Liquidators manufacturing process, it is possible that types of flooring other than laminate may also
24 contain toxic levels of formaldehyde.

25 40. In addition to laminate flooring, Lumber Liquidators also manufactures “Engineered
26 Hardwood” which it describes as being “produced by bonding a layer of hardwood to a plywood or
27

28 ¹² Cooper, *Lumber Liquidators Linked to Health and Safety Violations*, *supra* note 9.

1 high-density fiber board backing.” The description is similar to its description of laminate flooring,
2 which it says is “constructed with a high-density fiber board core” and is also bonded with glue.¹³

3 41. According to HPVA member Kip Howlett, “[f]ormaldehyde is used as a cheap glue” in
4 “laminate and engineered wood floors.” And here, formaldehyde was reported to be present in glue
5 used to hold together layers of Lumber Liquidators laminate flooring. Because Lumber Liquidators sells
6 laminate flooring and engineered hardwood produced in China that contains similar components that are
7 bonded together with glue, engineered hardwood may also contain toxic levels of formaldehyde. As one
8 report notes “[f]or those that believe Engineered Hardwood flooring is not affected by this issue, I would
9 direct you to the 10K where the descriptions used for the backing materials for the Laminate are
10 identical to those used for the Engineered Hardwood.”¹⁴

11 42. Lumber Liquidators exposed its customers and others to toxic levels of formaldehyde—a
12 recognized known carcinogen—to maintain and increase its industry-leading margins. As HVCA
13 member Kip Howlett put it, by using formaldehyde as cheap glue, Lumber Liquidators is able to make
14 “a million and a half panels” instead of a million.¹⁵ *60 Minutes* also reported that laminate flooring from
15 Home Depot and Lowe’s—two of Lumber Liquidators’ biggest competitors that trail it in reported gross
16 margin—tested for acceptable levels of formaldehyde.

17 43. One expert on American-Chinese supply chain relationships indicated that the
18 formaldehyde crisis may be the result of deficient quality control efforts by Lumber Liquidators:

19
20 Probably 98 percent of the time when there is a product problem in China, a lot of the
21 blame lies with the American company If they have a really good contract with
22 their supplier, then they should be in pretty good shape If not, then they could have
23 a problem.¹⁶

24
25 _____
26 ¹³ Lumber Liquidators Holdings, Inc., Annual Report (Form 10-K), at 4 (Feb. 25, 2015).

27 ¹⁴ Handley, *Dark Days Ahead for Lumber Liquidators*, *supra* note 2.

28 ¹⁵ *Id.*

¹⁶ Everett Rosenfeld, ‘*Made in China’ Doesn’t Have to Mean Dangerous*’, CNBC (March 4, 2015),
<http://www.cnbc.com/id/102470304> (last visited March 30, 2015).

1 Accordingly, the key to such contracts is for the American company to “scare the heck out of a Chinese
2 company” with very specific details about quality expectations, as well as minutia concerning
3 subcontracts and repayment for deficient products.

4 44. According to a Chinese manufacturing consultant, vigilant oversight is critical for
5 American companies who are concerned with maintaining quality control:

6
7 “[American companies need to] understand that the contract is viewed differently in Asia
8 than in the U.S. We sign and think that’s the end, but in China the view is completely
9 opposite They start cutting corners as soon as production begins. Any company can
10 demand a low price, and then the Chinese manufacturer kind of does what they want.”¹⁷

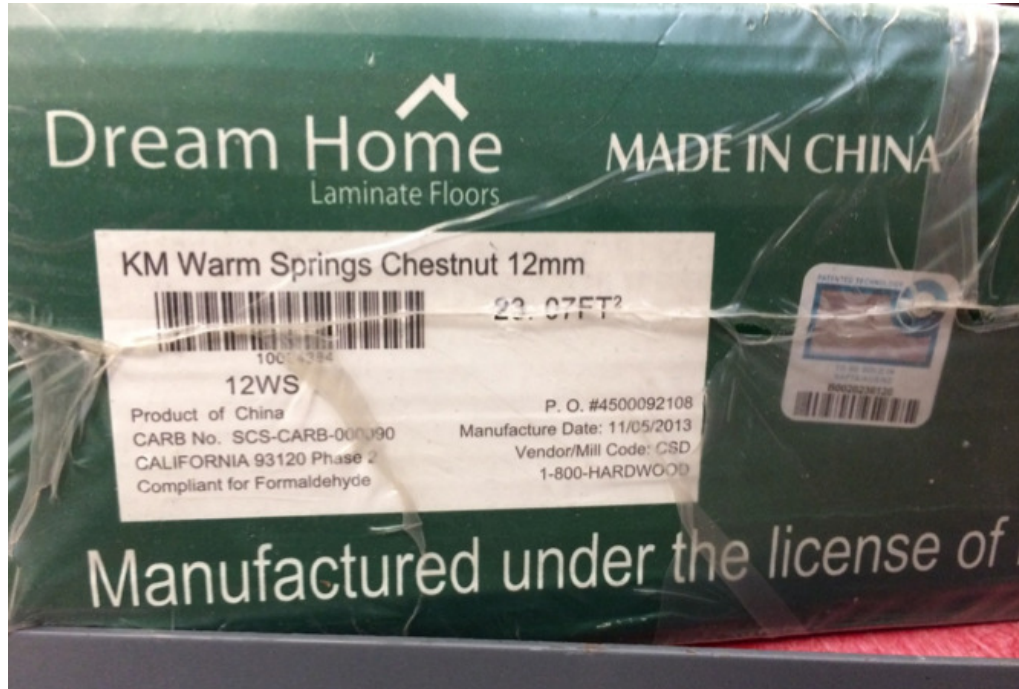
11
12 **Lumber Liquidators’ False Statements Relating to the Affected Laminate Flooring**

13 45. Lumber Liquidators sold consumers laminate flooring containing levels of formaldehyde
14 well in excess of the CARB limits, and falsely warranted its flooring as “Compliant for Formaldehyde.”
15 These false certifications have only exacerbated the danger to Plaintiffs and Class members.

16 46. Lumber Liquidators’ laminate packaging includes several false certifications. For
17 example, the following image is of the package of one of the affected laminate flooring products. It
18 falsely warrants that it is “CARB No. SCS-CARB-000090 California 93120 Phase 2 Compliant for
19 Formaldehyde.”

20
21
22
23
24
25
26
27
28 _____
¹⁷ *Id.*

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28



According to *60 Minutes*, “every box” of Lumber Liquidators laminate flooring makes similar warranties.

47. Lumber Liquidators purchase orders are also accompanied by a warranty stating that such flooring complies “with all applicable laws, codes and regulations,” and “bears all warnings, labels, and markings required by applicable laws and regulations.”

48. Moreover, Lumber Liquidators falsely represents on its website that it complies with the CARB limits when it does not, specifically representing:

Laminate and engineered flooring products sold by Lumber Liquidators are purchased from mills whose production method has been certified by a Third Party Certifier approved by the State of California to meet the CARB standards. . . . 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 Lumber Liquidators regularly selects one or more

1 finished products from each of its suppliers and submits them for independent third-party
2 lab testing.

3
4 Lumber Liquidators' website has also represented that all of its flooring "meets or exceeds rigorous
5 emissions standards," affirming "we not only comply with laws—we exceed them."

6 49. However, statements by Lumber Liquidators Chairman and Founder Tom Sullivan and
7 employees at its Chinese mills establish that the representations described above are false and that
8 Lumber Liquidators knew prior to shipment that the affected laminate flooring contains toxic levels of
9 formaldehyde.

10 50. The *60 Minutes* report included a hidden camera investigation, which illustrates Lumber
11 Liquidators' false statements:

- 12 • Posing as a buyer, an investigator asks about certain laminate flooring and is told by a general
13 manager of the mill: "This is a best-seller for Lumber Liquidators." After confirming that the
14 mill has been selling the laminate flooring for more than a year, the investigator asks: "Is this
15 CARB 2?" The general manager responds, "**No, no, no . . . I have to be honest with you. It's
16 not CARB 2.**"
- 17 • The investigator then asks whether it is possible to obtain laminate flooring within the CARB
18 limits. He is told: "Yes, you can. It's just the price issue. We can make CARB 2 but it would be
19 very expensive."
- 20 • Referring to Lumber Liquidators laminate flooring with the above-described warranties, the
21 investigator asks a Chinese mill employee: "All this stuff here, Lumber Liquidators . . . All their
22 labelling is CARB 2, right? But it's not 2?" The employee confirms: "**Not CARB 2.**"¹⁸

23 51. When confronted with the fact that employees at all three of the mills *60 Minutes*
24 investigated admitted that the Lumber Liquidators laminate flooring they manufacture is not
25 compliant—and after being shown videotape of those employees making such admissions—Mr.
26 Sullivan made the following statements:

27
28 _____
¹⁸ Cooper, *Lumber Liquidators Linked to Health and Safety Violations*, *supra* note 9 (emphasis added).

- 1 • “I don’t know the whole situation here. I will guarantee you we will be in that mill tomorrow and
2 test it. And **that is not anything we can condone in any way to save a cent.**”
- 3 • When asked if the admissions of the mill employees concerned him, he admitted: “Yeah . . . yeah
4 . . . of course.”
- 5 • When asked if the results of the *60 Minutes* investigation were acceptable to him, Mr. Sullivan
6 stated: “If it’s true, no.”
- 7 • Mr. Sullivan also admitted that if the labels on the laminate flooring that was the subject of the
8 investigation did—as they were proven to—say “CARB 2 Compliant” then “that would be
9 [cheating]”
- 10 • Lastly, Mr. Sullivan confirmed that the results of the *60 Minutes* investigation “called into
11 question” Lumber Liquidators’ oversight of its Chinese mills.¹⁹

12 52. Moreover, Lumber Liquidators admitted that its statements to Plaintiffs and Class
13 members could be false by disclaiming control over entities in its supply chain in its SEC filings,
14 including in its annual report for 2014, where it stated:

15
16 While our suppliers agree to operate in compliance with applicable laws and regulations,
17 including those related to environmental and labor practices, we do not control our
18 suppliers. Accordingly, despite our continued investment in quality control, we cannot
19 guarantee that they comply with such laws and regulations or operate in a legal, ethical,
20 and responsible manner.²⁰

21
22 In light of this concession, Lumber Liquidators knew at the time it made the above described warranties
23 of CARB compliance that the products accompanying such warranties might not be CARB compliant.

24 53. Lumber Liquidators is also aware of the importance of flooring purchases to its customer
25 base. In its annual report for 2014, it states “A flooring purchase is generally a large-ticket,
26 discretionary purchase that most residential homeowners purchase infrequently. Few home

27 _____
28 ¹⁹ *Id.* (emphasis added).

²⁰ Lumber Liquidators Holdings, Inc., Annual Report (Form 10-K), at 14 (Feb. 25, 2015).

1 improvements however, have as much consequence to the ambiance of a room as the flooring.”²¹ As
2 one reporter noted, Lumber Liquidators understands the “incredible cost . . . flooring represents for their
3 customers and also the emotional and aesthetic elements those same products involve.” Lumber
4 Liquidators’ level of understanding of its product and market placement thus renders the above-
5 described misstatements more egregious and accentuates the damage such misstatements have caused to
6 Plaintiffs and Class members.²²

7 54. Lumber Liquidators’ multiple and repeated false statements to its customers that its
8 products are CARB compliant are germane to customers’ health and safety and are therefore material
9 because a reasonable consumer would find them important in making their purchase decision.

10 55. Acting reasonably, had Plaintiffs and Class members known that Lumber Liquidators’
11 statements about the levels of formaldehyde in its laminate flooring were false, they would not have
12 purchased such laminate flooring.

13 56. Plaintiffs and Class members are justified in incurring the cost of replacing the toxic
14 floors Lumber Liquidators sold them under false pretenses. The alternative is for Plaintiffs and Class
15 members to subject themselves, and their family members to significant health hazards due to toxic
16 levels of formaldehyde.

17 **Lumber Liquidators’ Evolving Stance on the Formaldehyde Crisis and Recent**
18 **Governmental Intervention**

19 57. Since *60 Minutes* publicized its findings—and despite the admissions made on videotape
20 by employees at its own foreign mills—Lumber Liquidators and Mr. Sullivan have become more
21 defensive. In a recent letter released on Lumber Liquidators’ website, Mr. Sullivan stated:

22
23 Let me make one thing very clear—our laminate products, all of our products, are 100%
24 safe. We comply with applicable regulations regarding our products, including
25 California standards for formaldehyde emissions for composite wood products—the most
26 stringent rules in the country. We take our commitment to safety even further by

27 _____
28 ²¹ *Id.* at 6.

²² Handley, *Dark Days Ahead for Lumber Liquidators*, supra note 2.

1 employing compliance personnel around the world and utilizing the latest in cutting-edge
2 technology to provide our customers with top quality and high value flooring.²³

3
4 58. On Monday, March 2, 2015—in the face of the *60 Minutes* investigation and its
5 chairman’s admissions that he was concerned that the results of the investigation are unacceptable, and
6 that quality control at the company may be lacking—Lumber Liquidators trumpeted its safety record in
7 a an SEC filing, stating:

8
9 Lumber Liquidators is a leader in safety, as evidenced by our track record of providing
10 our wide range of products to two million satisfied customers across America. We
11 comply with applicable regulations set by the [CARB] Although the CARB
12 regulations only apply in California, we adhere to these standards everywhere we do
13 business. Every manufacturer of fiberboard cores used in our products is certified in
14 accordance with CARB regulations.

15 . . .

16 After becoming aware of the nature and content of the *60 Minutes* story, we immediately
17 reached out to the Chinese suppliers included in the story. The suppliers have confirmed
18 that all products provided to Lumber Liquidators have been and are CARB compliant.²⁴

19
20 59. Lumber Liquidators explained the damning *60 Minutes* footage by questioning its
21 authenticity:

22
23 The suppliers could not verify the identity of the individuals appearing in the videos.
24 One of the suppliers featured questioned whether the product shown was actually from its
25 factory. We randomly test each of our six laminate suppliers in China using

26 ²³ Tom Sullivan, *60 Minutes Letter From Tom*, Lumber Liquidators (March 2015),
27 <http://www.lumberliquidators.com/sustainability/60-minutes-letter-from-tom/> (last visited March 30,
28 2015).

²⁴ Lumber Liquidators Holdings, Inc., Current Report (Form 8-K), (March 2, 2015).

1 unannounced audits and all products tested are compliant and safe. Again, the results of
2 third-party testing are on our website.²⁵

3
4 60. Lumber Liquidators continues to sell its laminate flooring products—including the
5 products at issue in this action—with the false representation that they are CARB compliant. It has not
6 announced a recall or any planned changes to its current quality control protocol.

7 61. Despite Lumber Liquidators stiffening its support of its business practices and continuing
8 to stand behind its products, external scrutiny and criticism have continued to increase. On March 4,
9 2015, Senator Bill Nelson called for a federal investigation of Lumber Liquidators, stating “[b]ecause
10 this could affect millions of homeowners, it’s imperative we get some answers quickly.” The Consumer
11 Product Safety Commission “share[d] Senator Nelson’s perspective that this is an issue we must respond
12 to”²⁶

13 **PLAINTIFFS’ LAMINATE FLOORING PURCHASES**

14 62. Peter Picard purchased Lumber Liquidators’ Dream Home Nirvana French Oak laminate
15 flooring in 2013. He made his purchase at a Lumber Liquidators store in Albany, California. The box
16 of his flooring states that it was manufactured in China.

17 63. Sherry Liggins purchased St. James Dream Home Nirvana Ponta Negra Brazilian Cherry
18 and St. James Dream Home Horizontal Natural Bamboo laminate flooring in 2013 and 2014. She made
19 these purchases at a Lumber Liquidators store in Pleasantville, New Jersey. The boxes of the flooring
20 state that it was manufactured in China.

21 64. Before purchasing their Lumber Liquidators laminate flooring, Plaintiffs reviewed the
22 product labels of their laminate flooring. These packages warranted that the laminate flooring they
23 purchased was CARB compliant and did not disclose that the laminate flooring contained a toxic level
24 of formaldehyde. They chose to purchase Lumber Liquidators brand laminate flooring instead of
25 competing products based in part on these representations. Thus, Plaintiffs reasonably believed at the

26
27 ²⁵ *Id.*

28 ²⁶ Jacob Pramuk, *Senator Urges US to Probe Lumber Liquidators*, CNBS (March 4, 2015),
<http://www.cnbc.com/id/102459021> (last visited March 30, 2015).

1 point of sale that the laminate flooring they purchased did not contain toxic levels of formaldehyde or
2 levels exceeding the CARB limits.

3 65. Had Plaintiffs known that the laminate flooring they purchased contained levels of
4 formaldehyde exceeding the CARB limits or toxic levels of formaldehyde, they would not have
5 purchased such laminate flooring.

6 **CLASS ACTION ALLEGATIONS**

7 66. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, Plaintiffs bring this action
8 on behalf of themselves and a proposed nationwide class (“Class”) initially defined as:

9
10 *All persons who purchased laminate flooring manufactured in China from Defendants in*
11 *the United States, other than for purposes of resale.*

12
13 67. Excluded from the proposed Class are Defendants Lumber Liquidators Holdings, Inc.,
14 Lumber Liquidators, Inc., Lumber Liquidators Leasing, LLC, Lumber Liquidators Services, LLC, any
15 parent, affiliate, or subsidiary Defendants; any entity in which Defendants have a controlling interest;
16 any of Defendants’ officers or directors; any successor or assign of Defendants; anyone employed by
17 counsel for Plaintiffs; any Judge to whom this case is assigned, his or her spouse, and all persons within
18 the third degree of relationship to either of them.

19 68. Numerosity of the Class – Fed. R. Civ. P. 23(a)(1). The members of the Class are so
20 numerous that joinder of all members is impracticable. While the exact number of Class members is
21 unknown to Plaintiffs at the present time and can only be ascertained through appropriate discovery,
22 Plaintiffs believe that there are thousands of Class members located throughout the United States. It
23 would be impracticable to join the Class members individually.

24 69. Existence and Predominance of Common Questions—Fed. R. Civ. P. 23(a)(2), 23(b)(3).
25 Common questions of law and fact exist as to all Class members and predominate over questions
26 affecting only individual Class members. These common questions include:

27 a. Whether Lumber Liquidators maintained adequate mechanisms of quality control over
28 Chinese entities in its supply chain to ensure that its laminate flooring was CARB compliant;

1 b. Whether Lumber Liquidators marketed, labeled, or otherwise represented that its
2 laminate flooring was CARB compliant;

3 c. Whether Lumber Liquidators' laminate flooring exceeds the CARB limits;

4 d. Whether Lumber Liquidators' representations regarding the affected laminate flooring's
5 CARB compliance were false;

6 e. Whether Lumber Liquidators knew, or in the exercise of reasonable diligence should
7 have known, that its representations regarding the CARB compliance of its laminate flooring products
8 were false or deceptive;

9 f. Whether Lumber Liquidators' representations regarding the CARB compliance of its
10 laminate flooring would deceive a reasonable consumer;

11 g. Whether Lumber Liquidators' conduct with regard to the marketing and sale of the its
12 laminate flooring constitutes unfair, deceptive, untrue, or misleading advertising;

13 h. Whether Lumber Liquidators profited from mislabeling its laminate flooring products;

14 i. Whether Lumber Liquidators violated the consumer protection laws of California and
15 New Jersey;

16 j. Whether Lumber Liquidators acted negligently in mislabeling the affected laminate
17 flooring or by failing to detect that such laminate flooring did not contain CARB compliant levels of
18 formaldehyde; and

19 k. Whether Lumber Liquidators' conduct described above caused Plaintiffs and Class
20 members to suffer injury.

21 70. Typicality – Fed. R. Civ. P. 23(a)(3). Plaintiffs' claims are typical of the claims of the
22 Class because, among other things, they purchased Lumber Liquidators laminate flooring due to Lumber
23 Liquidators' misstatements and lost money as a result.

24 71. Adequacy of Representation – Fed. R. Civ. P. 23(a)(4). Plaintiffs are adequate
25 representatives because their interests are aligned with those of the Class members they seek to
26 represent. Plaintiffs have retained counsel competent and experienced in complex class action litigation,
27 and Plaintiffs intend to prosecute this action vigorously on Class members' behalf.

28

1 76. Lumber Liquidators has violated and continues to violate California's Unfair Competition
2 Law, Cal. Bus. & Prof. Code § 17200, et seq., which prohibits unlawful, unfair, or fraudulent business
3 acts or practices.

4 77. Lumber Liquidators' acts and practices constitute unlawful business practices in that they
5 violate the Consumers Legal Remedies Act, Cal. Civ. Code § 1750, et seq., California's False
6 Advertising Law, Cal. Bus. & Prof. Code § 17500 et seq., and the Song-Beverly Consumer Warranty
7 Act, Cal. Civ. Code § 1790, et seq.

8 78. Lumber Liquidators' acts and practices also constitute fraudulent practices in that they
9 are likely to deceive a reasonable consumer. Lumber Liquidators falsely represented that the affected
10 laminate flooring products contained CARB compliant levels of formaldehyde. It also failed to disclose
11 that it maintained inadequate quality control mechanisms for formaldehyde testing and that such
12 laminate flooring was mislabeled and contained toxic levels of formaldehyde—a significant public
13 health danger. A reasonable consumer would not have purchased the affected laminate flooring
14 products from Lumber Liquidators if the company had adequately disclosed that its product was
15 unreasonably dangerous, lacked appropriate quality control mechanisms, and/or was mislabeled.

16 79. Lumber Liquidators' fraudulent acts and practices also constitute unfair business
17 practices in that:

18 a. The legitimate utility of Lumber Liquidators' conduct is outweighed by the harm
19 to Plaintiffs and other members of the Class;

20 b. Lumber Liquidators' conduct is immoral, unethical, oppressive, unscrupulous, or
21 substantially injurious to Plaintiffs and the other members of the Class; and

22 c. Lumber Liquidators' conduct violates the policies underlying the Consumers
23 Legal Remedies Act—to protect consumers from unfair or deceptive business practices.

24 80. As a direct and proximate result of Lumber Liquidators' unlawful, unfair, and fraudulent
25 business practices as alleged above, Plaintiffs and Class members have suffered injury in fact and lost
26 money or property, because they purchased and paid to install Lumber Liquidators Chinese
27 manufactured laminate flooring containing toxic levels of formaldehyde that they otherwise would not
28 have, and because such laminate flooring is valueless and hazardous to Plaintiffs and Class members'

1 health. Meanwhile, Lumber Liquidators has generated more revenue than it otherwise would have and
2 charged inflated prices for valueless products, unjustly enriching itself.

3 81. Plaintiffs and Class members are entitled to equitable relief, including restitutionary
4 disgorgement of all profits accruing to Defendants because of their unlawful, unfair, fraudulent, and
5 deceptive practices; attorney's fees and costs; declaratory relief; and a permanent injunction enjoining
6 Defendants from their unlawful, unfair, fraudulent, and deceitful activity.

7
8 **SECOND CAUSE OF ACTION**

9 **(For violations of California's False Advertising Law,**
10 **Cal. Business and Professions Code § 17500, et seq.)**

11 82. Plaintiffs, on behalf of themselves and the Class, reallege as if fully set forth, each and
12 every allegation set forth above.

13 83. Lumber Liquidators' acts and practices, as alleged in this complaint, constitute untrue and
14 misleading statements in violation of the False Advertising Law, Cal. Bus & Prof. Code § 17500, et seq.

15 84. Lumber Liquidators violated the False Advertising Law by advertising on its website and
16 on its product packaging that the affected laminate flooring contained CARB compliant levels of
17 formaldehyde. In fact, the affected laminate contains formaldehyde levels well over the CARB limits,
18 posing an imminent and significant danger to Plaintiffs and Class members' health.

19 85. Lumber Liquidators knew or should have known that the advertising on its website and
20 product packaging was untrue or misleading.

21 86. Lumber Liquidators' false advertising, misrepresentations, and material omissions were
22 and are likely to deceive a reasonable consumer.

23 87. As a direct and proximate result of Lumber Liquidators' false advertising, Plaintiffs and
24 Class members have suffered injury in fact and lost money or property, in that they purchased the
25 affected laminate flooring when they otherwise would not have. Meanwhile, Lumber Liquidators has
26 sold more of the affected laminate flooring than it otherwise would have and better gross margins,
27 unjustly enriching itself.

28

1 88. Plaintiffs and Class members are entitled to equitable relief, including restitution of all
2 amounts paid for the affected laminate flooring, restitutionary disgorgement of all profits accruing to
3 Defendants because of their unfair and fraudulent practices, attorney’s fees and costs, declaratory relief,
4 and a permanent injunction enjoining Defendants from their unfair and fraudulent activity.

5
6 **THIRD CAUSE OF ACTION**

7 **(For Violations of the Consumers Legal Remedies Act,**
8 **Cal. Civ. Code § 1750, et seq.)**

9 89. Plaintiffs, on behalf of themselves and the Class, reallege as if fully set forth, each and
10 every allegation set forth above.

11 90. Each Defendant is a “person” within the meaning of Civil Code §§ 1761(c) and 1770, and
12 provided “goods” within the meaning of Civil Code §§ 1761(a) and 1770.

13 91. Plaintiffs and members of the Class are “consumers” within the meaning of Civil Code
14 §§ 1761(d) and 1770, and each has engaged in a “transaction” within the meaning of Civil Code §§
15 1761(e) and 1770.

16 92. Lumber Liquidators’ acts and practices, as alleged in this complaint, violate the
17 Consumers Legal Remedies Act (“CLRA”), Cal. Civ. Code §§ 1770(a)(5), (7), (14), and (16), by
18 engaging in unfair methods of competition and unfair and deceptive acts and practices in connection
19 with transactions—namely, the sale of the affected laminate products to Plaintiffs and members of the
20 Class. This conduct was intended to result and did result in the sale of these goods to consumers.
21 Specifically, Lumber Liquidators:

- 22 a. Represented that the affected laminate had approval or characteristics that it did not have;
23 b. Represented that the affected laminate was of a particular standard, quality, or grade
24 when it was of another;
25 c. Represented that consumers’ purchases of affected laminate conferred or involved rights
26 that the transactions did not have or involve; and
27 d. Represented that the affected laminate was supplied in accordance with Lumber
28 Liquidators’ representations, when the affected laminate was not supplied that way.

1 93. As a direct and proximate result of Lumber Liquidators' conduct, Plaintiffs and Class
2 members have been harmed, in that they purchased and paid to install laminate flooring that they
3 otherwise would not have, and because such laminate flooring is valueless and hazardous to Plaintiffs
4 and Class members' health. Meanwhile, Lumber Liquidators has generated more revenue than it
5 otherwise would have and charged inflated prices for valueless products, unjustly enriching itself.

6 94. Plaintiffs and Class members are entitled to equitable relief, attorney's fees and costs,
7 declaratory relief, and a permanent injunction enjoining Lumber Liquidators from its unlawful,
8 fraudulent, and deceitful activity.

9 95. Pursuant to the provisions of Cal. Civ. Code § 1782(a), Plaintiffs will send a notice letter
10 to Defendants to provide them with the opportunity to correct their business practices. If Defendants do
11 not thereafter correct their business practices, Plaintiffs will amend (or seek leave to amend) the
12 complaint to add claims for monetary relief, including restitution, actual, and punitive damages under
13 the Consumers Legal Remedies Act.

14
15 **FOURTH CAUSE OF ACTION**

16 **(For Violations of the Song-Beverly Consumer Warranty Act,**

17 **Cal. Civ. Code § 1790, et seq.)**

18 96. Plaintiffs, on behalf of themselves and the Class, reallege as if fully set forth, each and
19 every allegation set forth above.

20 97. The affected laminate flooring products are "consumer goods" under Cal. Civ. Code §
21 1791(a).

22 98. Plaintiffs and Class members are "buyers" or "retail buyers" under Cal. Civ. Code §
23 1791(b).

24 99. Defendants are "manufacturers," "distributors," and/or "retail sellers" under Cal. Civ.
25 Code §§ 1791(e), (j), and (l).

26 100. The implied warranty of merchantability included with each sale of the affected laminate
27 flooring means that Lumber Liquidators warranted that such laminate flooring (a) would pass without
28 objection in the trade under the contract description; (b) was fit for the ordinary purposes for which

1 laminate flooring is used; (c) was adequately contained, packaged, and labeled; and (d) conformed to the
2 promises or affirmations of fact made on the container or label. Cal. Civ. Code § 1791.1(a).

3 101. The written express warranty included with each sale of the affected laminate flooring
4 warranted that such laminate flooring contained CARB compliant levels of formaldehyde. Cal. Civ.
5 Code § 1791.2.

6 102. Lumber Liquidators breached the implied warranty of merchantability and thereby
7 violated the Song-Beverly Consumer Warranty Act by selling laminate flooring containing toxic levels
8 of formaldehyde in excess of the CARB limits to its substantial customer base—including Plaintiffs and
9 Class members—endangering their health thereby.

10 103. Lumber Liquidators breached an express warranty to Plaintiffs and the Class because the
11 affected laminate flooring contained levels of formaldehyde in excess of the CARB limits.

12 104. Plaintiffs and Class members have been damaged by Lumber Liquidators' breach of the
13 implied warranty of merchantability and breach of express warranty and therefore seek damages, other
14 legal and equitable relief, and an award of attorneys' fees, costs, and expenses. Cal. Civ. Code §
15 1794(a) and (d).

16
17 **FIFTH CAUSE OF ACTION**

18 **(For violations of the New Jersey Consumer Fraud Act,**

19 **N.J. Stat. Ann. § 56:8-1, *et seq.*)**

20 105. Plaintiffs, on behalf of themselves and the Class, reallege as if fully set forth, each and
21 every allegation set forth above.

22 106. Plaintiffs and Class members are consumers who purchased Chinese-produced laminate
23 from Lumber Liquidators.

24 107. In the course of Lumber Liquidators' business, it intentionally and knowingly concealed,
25 suppressed, and omitted the dangerous risk of the laminate's noncompliance with CARB's
26 formaldehyde emissions standards. This fact is material to a reasonable consumer in that it poses an
27 unreasonable risk to their safety. It is also material in that a reasonable consumer would have
28 considered it to be important in deciding whether to purchase the laminate or pay a lesser price. Had

1 Plaintiffs and the Class known about the true nature of the laminate, they would not have purchased it or
2 would have paid less.

3 108. Lumber Liquidators engaged in unfair and deceptive trade practices, including
4 representing that its laminate flooring has characteristics, uses, benefits, and qualities which it does not
5 have; representing that it is of a particular standard and quality when it is not; advertising the laminate
6 flooring with the intent to not sell it as advertised; and otherwise engaging in conduct likely to deceive.

7 109. Lumber Liquidators' acts and practices offend established public policy because the harm
8 it causes to consumers outweighs any benefit associated with such practices, and because Lumber
9 Liquidators fraudulently concealed the true nature of its laminate flooring from consumers.

10 110. Lumber Liquidators' actions as set forth above occurred in the conduct of trade or
11 commerce.

12 111. Lumber Liquidators' conduct caused Plaintiffs and Class members to suffer an
13 ascertainable loss. Plaintiffs and the Class members purchased laminate products that the otherwise
14 would not have or would have paid a lesser price for. As a result, they did not receive their benefit of
15 the bargain and their flooring has suffered a diminution in value.

16 112. Plaintiffs and other Class members' damages are the direct and foreseeable result of
17 Lumber Liquidators' conduct. Had the defect in the laminate products been disclosed, consumers would
18 not have purchased or paid less for the laminate and been spared subsequent expenses.

19 113. Pursuant to N.J. Stat. Ann. § 56:8-20, Plaintiffs will serve the New Jersey Attorney
20 General with a copy of this complaint.

21
22 **SIXTH CAUSE OF ACTION**

23 **(Negligence)**

24 114. Plaintiffs, on behalf of themselves and the Class, reallege as if fully set forth, each and
25 every allegation set forth above.

26 115. Lumber Liquidators owed Plaintiffs and Class members a duty to provide an accurate
27 representation of the formaldehyde levels present in the laminate flooring it sold them. Lumber
28 Liquidators also owed Plaintiffs and Class members a duty to exercise reasonable quality control over

1 such laminate flooring prior to offering it to the public for purchase. And Lumber Liquidators owed
2 Plaintiffs and Class members a duty, once it discovered the toxic levels of formaldehyde—via the *60*
3 *Minutes* hidden camera footage shown to its CEO or otherwise—to ensure that an appropriate quality
4 control procedure to guard against future violations was developed and immediately implemented.

5 116. Lumber Liquidators owed a duty to Plaintiffs and Class members not to engage in
6 fraudulent or deceptive conduct, including the omission of material information like the presence of
7 toxic levels of formaldehyde in the affected laminate flooring.

8 117. Lumber Liquidators also owed an independent duty to Plaintiffs and Class members to
9 accurately represent the characteristics of the affected laminate flooring under the Consumers Legal
10 Remedies Act, Cal. Civ. Code. § 1750 et seq.

11 118. A finding that Lumber Liquidators owed a duty to Plaintiffs and Class members would
12 not impose a significant burden. Lumber Liquidators has the means to accurately apprise the public of
13 the ingredients in its laminate flooring by ensuring that adequate quality control mechanisms are in place
14 at the appropriate levels in its supply chain and are followed by affected employees and/or vendors. The
15 cost borne by Lumber Liquidators for these efforts is insignificant in light of the public health dangers
16 posed to Plaintiffs and Class members by the failure to take steps toward ensuring that consumers are
17 apprised of the levels of toxic chemicals in the products they purchase.

18 119. As recently established by the testing discussed above, Lumber Liquidators
19 manufactured, sold and shipped to Plaintiffs and Class members laminate flooring with toxic levels of
20 formaldehyde in excess of the CARB limits while concurrently representing that such floorboards
21 contained formaldehyde within the CARB limits. In doing so, Lumber Liquidators departed from the
22 reasonable standard of care and breached its duties to Plaintiffs and other purchasers of the affected
23 laminate flooring.

24 120. As a direct, reasonably foreseeable, and proximate result of Lumber Liquidators' failure
25 to exercise reasonable care, Plaintiffs and Class members have suffered damages because they spent
26 more money on the affected laminate flooring—including installation—than they otherwise would have.
27
28

1 121. Plaintiffs and Class members could not have prevented these damages through the
2 exercise of reasonable diligence. Neither Plaintiffs nor other Class members contributed to Lumber
3 Liquidators' misstatements.

4 122. Plaintiffs and Class members seek to recover their damages caused by Lumber
5 Liquidators. In addition, since Lumber Liquidators acted fraudulently, and with wanton and reckless
6 misconduct, in conscious disregard of the safety of Plaintiffs and Class members, Plaintiffs also seek an
7 award of exemplary damages.

8
9 **SEVENTH CAUSE OF ACTION**

10 **(Declaratory Relief)**

11 123. Plaintiffs incorporate each and every allegation above as if fully set forth herein

12 124. An actual controversy, over which this Court has jurisdiction, has arisen and now exists
13 between the parties relating to the legal rights and duties of Plaintiffs and Defendants for which
14 Plaintiffs desire a declaration of rights.

15 125. Plaintiffs contend and Defendants dispute that Defendants' acts, practices and conduct
16 violates the consumer protection laws of California and New Jersey, as alleged above.

17 126. Plaintiffs, on behalf themselves and the Class, are entitled to a declaration that
18 Defendants illegally represented that the affected laminate flooring products contained levels of
19 formaldehyde within the CARB limits when in fact such laminate flooring contained toxic levels of
20 formaldehyde exceeding the CARB limits in violation of the state statutes and laws alleged herein, and
21 are entitled to injunctive relief to enforce the Court's declaration.

22
23 **PRAYER FOR RELIEF**

24 WHEREFORE, Plaintiffs prays for judgment as follows:

- 25 (a) For an order certifying the proposed Class and appointing Plaintiffs and their
26 counsel to represent the Class;
- 27 (b) For an order awarding Plaintiffs and members of the Class:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

- (i) Actual, statutory, common law, and exemplary damages as provided by California and federal law, except that no monetary relief is presently sought for violations of the CLRA.
- (ii) Disgorgement of all revenues unjustly earned by Defendants by selling laminate flooring containing toxic amounts of formaldehyde in excess of the CARB limits, except that no monetary relief is presently sought for violations of the CLRA;
- (iii) Pre-judgment and post-judgment interest; and
- (iv) Reasonable attorneys' fees and costs of suit, including but not limited to expert witness fees.

- (c) For appropriate injunctive relief, including enjoining Lumber Liquidators from continuing to engage in unlawful business practices as alleged above; and
- (d) For a declaratory judgment that the conduct complained of in this Complaint is unlawful and violates state and federal law.

JURY DEMAND

Plaintiffs demand a trial by jury on all claims so triable.

DATED: March 30, 2015

Respectfully submitted,

GIRARD GIBBS LLP

By: /s/ Eric. H. Gibbs
Eric H. Gibbs

Daniel C. Girard
Adam E. Polk
Steve A. Lopez
GIRARD GIBBS LLP
601 California Street, 14th Floor
San Francisco, California 94104
Telephone: (415) 981-4800
Facsimile: (415) 981-4846
dcg@girardgibbs.com

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ehg@girardgibbs.com
aep@girardgibbs.com
sal@girardgibbs.com

Robert A. Mosier
SANDERS PHILLIPS GROSSMAN, LLC
2101 Rosecrans Avenue, Suite 3290
El Segundo, CA 90245
Telephone: (310) 358-2777
Facsimile: (310) 258-2768
RMosier@THESANDERSFIRM.COM

Joseph G. Sauder
Matthew D. Schelkopf
Benjamin F. Johns
CHIMICLES & TIKELLIS LLP
One Haverford Centre
361 West Lancaster Avenue
Haverford, Pennsylvania 19041
Telephone: (610) 642-8500
Facsimile: (610) 649-3633
JGS@chimicles.com
MDS@chimicles.com
BFJ@chimicles.com

THE MALONE FIRM, LLC
Thomas B. Malone, Esq.
1650 Arch St., Suite 1903
Philadelphia, PA 19103
Telephone: (215) 987-5200

Attorneys for Plaintiffs