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17 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
18 **FOR THE COUNTY OF ALAMEDA**

20 **PEOPLE OF THE STATE OF CALIFORNIA**, ex rel.
21 **EDMUND G. BROWN JR**, Attorney General,
22 **ROCKARD J. DELGADILLO**, Los Angeles City
23 Attorney, and **DAVID W. PAULSON**, Solano County
24 District Attorney

25 **Plaintiffs,**

26 v.

27 **BEAULIEU GROUP, LLC**, a Georgia Corporation;
28 **ASTROTURF, LLC**, a Georgia corporation;
FIELDTURF USA, INC., a Florida corporation, and
DOES 1 through 50.

Defendants.

Case No.: **RG 08407310**

**COMPLAINT FOR CIVIL
PENALTY AND INJUNCTIVE
RELIEF**

(Health and Safety Code § 25249.5
et seq. and Business and Professions
Code § 17200)

1 Plaintiffs, the People of the State of California, by and through Edmund G. Brown Jr.,
2 Attorney General, Rockard J. Delgadillo, Los Angeles City Attorney, and David W. Paulson,
3 Solano County District Attorney, hereby allege:

4 **I. PRELIMINARY STATEMENT**

5 1. This complaint seeks to remedy the Defendants' failure to warn persons about
6 exposures to the lead that is present in Defendants' artificial or synthetic turf and lawn products
7 ("Turf Products"). Lead is a chemical known to the State of California to cause birth defects and
8 other reproductive harm. Under the Safe Drinking Water and Toxic Enforcement Act of 1986,
9 Health and Safety Code section 25249.6, also known as "Proposition 65," businesses must
10 provide persons with a "clear and reasonable warning" before exposing individuals to chemicals
11 known to the state to cause cancer or reproductive harm.

12 **II. PARTIES**

13 2. Plaintiffs are the People of the State of California, by and through Attorney
14 General Edmund G. Brown Jr., Los Angeles City Attorney Rockard J. Delgadillo, and Solano
15 County District Attorney David W. Paulson. Health and Safety Code section 25249.7(c)
16 provides that actions to enforce Proposition 65 may be brought by the Attorney General, a
17 District Attorney or certain City Attorneys in the name of the People of the State of California.
18 Business and Professions Code sections 17200 *et seq.* provide that actions to enforce that statute
19 may be brought by the Attorney General in the name of the People of the State of California, or
20 by a District Attorney or City Attorney. Plaintiffs bring this action under the authority granted to
21 them by the Safe Drinking Water and Toxic Enforcement Act of 1986, commonly known as
22 "Proposition 65" (Health and Safety Code sections 25249, *et seq.*); the California "Unfair
23 Competition Law" (Business and Professions Code sections 17200, *et seq.*); and the California
24 "False Advertising Law" (Business and Professions Code sections 17500, *et seq.*).

25 3. Defendant BEAULIEU GROUP, LLC ("Beaulieu") is a corporation organized
26 and existing under the laws of the state of Georgia. Beaulieu is a person within the meaning of
27 Health and Safety Code Section 25249.11. Beaulieu manufactures Turf Products and offers them
28 for sale within the State of California.

1 4. Defendant” ASTROTURF, LLC (AstroTurf) is a corporation organized and
2 existing under the laws of the State of Georgia. AstroTurf is a person within the meaning of
3 Health and Safety Code Secton 25249.11. AstroTurf manufactures Turf Products and offers
4 them for sale within the State of California.

5 5. Defendant FIELDTURF USA, INC., (FieldTurf) is a corporation organized and
6 existing under the laws of the State of Florida. AstroTurf is a person within the meaning of
7 Health and Safety Code Secton 25249.11. FieldTurf manufactures Turf Products and offers them
8 for sale within the State of California.

9 6. Defendants DOES 1 though 50 are business entities engaged in the manufacture
10 sale and/or distribution of artificial turf or lawn products. As part of their business activities,
11 Does 1 through 50, and each of them, cause persons in California to be exposed to lead that is
12 present in their artificial turf products, and Does 1 through 50 have failed to provide a clear and
13 reasonable warning as to such exposures. The names and identities of defendants DOES 1
14 through 50 are unknown to Plaintiffs, and when they are known this complaint will be amended
15 to state their names and identities.

16 **III. JURISDICTION AND VENUE**

17 7. This Court has jurisdiction pursuant to California Constitution Article VI, section
18 10, because this case is a cause not given by statute to other trial courts.

19 8. This Court has jurisdiction over the Defendants and each of them, because each
20 defendant is a business entity that does sufficient business, has sufficient minimum contacts in
21 California, or otherwise intentionally avails itself of the California market, through the sale,
22 marketing, and use of its products in California, to render the exercise of jurisdiction over it by
23 the California courts consistent with traditional notions of fair play and substantial justice.

24 9. Venue is proper in this Court because the cause, or part thereof, arises in Alameda
25 County because Defendant’s products are sold and consumed in this county.

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1 **IV. STATUTORY BACKGROUND**

2 **A. Proposition 65**

3 10. The Safe Drinking Water and Toxic Enforcement Act of 1986 is an initiative
4 statute passed as "Proposition 65" by a vote of the people in November of 1986.

5 11. The warning requirement of Proposition 65 is contained in Health and Safety
6 Code section 25249.6, which provides:

7 No person in the course of doing business shall knowingly and intentionally
8 expose any individual to a chemical known to the state to cause cancer or
9 reproductive toxicity without first giving clear and reasonable warning to such
10 individual, except as provided in Section 25249.10.

11 12. An exposure to a chemical in a consumer product is one "which results from a
12 person's acquisition, purchase, storage, consumption, or other reasonably foreseeable use of a
13 consumer good, or any exposure that results from receiving a consumer service." (Cal. Code
14 Regs., tit. 22, § 12601, subd. (b).)

15 13. Proposition 65 establishes a procedure by which the state is to develop a list of
16 chemicals "known to the State to cause cancer or reproductive toxicity." (Health & Saf. Code,
17 § 25249.8.) No warning need be given concerning a listed chemical until one year after the
18 chemical first appears on the list. (*Id.*, § 25249.10, subd. (b).)

19 14. Any person "violating or threatening to violate" the statute may be enjoined in
20 any court of competent jurisdiction. (Health & Saf. Code, § 25249.7.) To "threaten to violate" is
21 defined to mean "to create a condition in which there is a substantial probability that a violation
22 will occur." (*Id.*, § 25249.11, subd. (e).) In addition, violators are liable for civil penalties of up
23 to \$2,500 per day for each violation, recoverable in a civil action. (*Id.*, § 25249.7, subd. (b).)

24 15. Actions to enforce the law "may be brought by the Attorney General in the name
25 of the People of the State of California [or] by any district attorney [or] by any City Attorney of a
26 City having a population in excess of 750,000 . . ." (*Id.*, § 25249.7, subd. (c).) The City of Los
27 Angeles has a population in excess of 750,000 persons. Private parties are given authority to
28 enforce Proposition 65 "in the public interest," but only if the private party first provides written

1 notice of a violation to the alleged violator, the Attorney General, and every District Attorney in
2 whose jurisdiction the alleged violation occurs. If no public prosecutors commence enforcement
3 within sixty days, then the private party may sue. (Health & Saf. Code, § 25249.7(d).)

4 16. In an action by the Attorney General, a district attorney or a city attorney, the
5 Attorney General, district attorney or city attorney may “seek and recover costs and attorney’s
6 fees on behalf of any party who provides a notice pursuant to subdivision (d) and who renders
7 assistance in that action.” (*Id.*, § 25249.7, subd. (j).)

8 **B. The Unfair Competition Act**

9 17. California Business and Professions Code section 17200 provides that “unfair
10 competition shall mean and include unlawful, unfair or fraudulent business practice.” Section
11 17203 of the Business and Professions Code provides that “(a)ny person performing or proposing
12 to perform an act of unfair competition within this state may be enjoined in any court of
13 competent jurisdiction.”

14 18. Unlawful acts under the statute include any act that is unlawful that is conducted
15 as part of business activity, and therefore include violations of Proposition 65.

16 19. A person violating section 17200 “shall be liable for a civil penalty not to exceed
17 two thousand five hundred dollars (\$2,500) for each violation, which shall be assessed and
18 recovered in a civil action brought in the name of the people of the State of California by the
19 Attorney General or by any district attorney . . . [or] by any city attorney of a city . . . having a
20 population in excess of 750,000.” Under section 17205, these penalties are “cumulative to each
21 other and to the remedies or penalties available under all other laws of this state.”

22 **V. FACTS**

23 20. “Lead” was placed on the Governor's list of chemicals known to the State of
24 California to cause reproductive toxicity on February 27, 1987. It is specifically identified under
25 three subcategories: “developmental reproductive toxicity,” which means harm to the developing
26 fetus, “female reproductive toxicity,” which means harm to the female reproductive system, and

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28 “male reproductive toxicity,” which means harm to the male reproductive system. (Cal. Code

1 Regs., tit. 22, § 12000, subd. (c).)

2 21. "Lead and lead compounds" were placed in the Governor's list of chemicals
3 known to the State of California to cause cancer on October 1, 1992. (Cal. Code Regs., tit. 22, §
4 12000, subd. (b).)

5 22. Defendants' Turf Products contain lead. Persons who purchase, use and/or
6 come into contact with these products are exposed to lead. The pathways of exposure include:
7 (1) contact between the Turf Products and the skin, (2) transfer of lead from Turf Products to the
8 skin or clothing, and then to the mouth, both by transfer of lead directly from the hand to mouth
9 and by transfer of lead from the skin to objects that are put in the mouth, such as food and (3)
10 through absorption of lead through the skin.

11 23. At all times material to this complaint, Defendants, and each of them, had
12 knowledge that their the Turf Products contained lead.

13 24. At all times material to this complaint, Defendants and each of them, knew that
14 the Turf Products were sold throughout the State of California in large volume, and Defendants
15 profited from such sales.

16 25. Notwithstanding this knowledge, and the knowledge that the Turf Products
17 contain lead, Defendants intentionally continued the sale of the Turf Products.

18 26. At all times material to this complaint, Defendants and each of them have
19 knowingly and intentionally exposed individuals within the State of California to lead. The
20 exposure is knowing and intentional because it is the result of the Defendant's deliberate act of
21 manufacturing and selling products known to contain lead to consumers within the state of
22 California, and with the knowledge that the intended use of these products will result in
23 exposures to lead within the State of California.

24 27. Defendants have failed to provide clear and reasonable warnings that the use of
25 the products in question in California results in exposure to a chemical known to the State of
26 California to cause cancer, birth defects and other reproductive harm, and no such warning was
27 provided by any other person to the individuals who suffered such exposures.

28 28. Within the four years preceding the filing of this action, Defendants have

1 advertised and made other public statements in California that their Turf Products are of
2 uniformly high quality; and these advertisements and other statements were likely to cause the
3 public to wrongly believe that there was no lead in the Turf Products.

4 **VI. FIRST CAUSE OF ACTION**

5 (Against Defendants for Violation of Proposition 65)

6 29. Paragraphs 1 through 28 are realleged as if fully set forth herein.

7 30. By committing the acts alleged above, Defendants, and each of them, have, in the
8 course of doing business, knowingly and intentionally exposed individuals in California to
9 chemicals known to the State of California to cause cancer and reproductive toxicity without first
10 giving clear and reasonable warning to such individuals, within the meaning of Health and Safety
11 Code section 25249.6.

12 31. Said violations render each Defendant liable to plaintiffs for civil penalties not to
13 exceed \$2,500 per day for each violation, as well as other remedies.

14 **SECOND CAUSE OF ACTION**

15 (Violations of Business and Professions Code sections 17200, et seq.)

16 32. Plaintiff incorporates by this reference each and every allegation of paragraphs 1
17 through 31 above as though each was repeated herein.

18 33. Within the four years preceding the filing of this action, Defendants violated
19 California Business and Professions Code section 17200 by engaging in the following unlawful
20 business acts and practices: Defendants knowingly and intentionally exposed individuals in
21 California to detectable levels of lead, without clear and reasonable warning, in violation of
22 Proposition 65, Health and Safety Code sections 25249.5, et seq. A violation of Business and
23 Professions Code section 17200 occurred each time an individual was exposed to the lead present
24 in Defendants' Turf Products without first receiving a clear and reasonable warning.

25 34. As of the date of the filing of this action, Defendants continue to engage in, and
26 are proposing to engage in, violations of Business and Professions Code section 17200.

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1 **THIRD CAUSE OF ACTION**

2 (Violation of Business and Professions Code sections 17500, et seq.)

3 35. Plaintiff incorporates by this reference each and every allegation of Paragraphs 1
4 through 34 above as though each was repeated herein.

5 36. Within the three years preceding the filing of this action, Defendants violated
6 Business and Professions Code section 17500 by making and causing others to make untrue
7 and/or misleading statements to induce California consumers to purchase and consume their
8 respective Turf Products, which include lead. These statements asserted that the Turf Products
9 were of uniformly high quality and/or were lead-free or eco-friendly; and these statements and
10 other similar advertisements and statements were likely to cause the public to wrongly believe
11 that there were no appreciable amounts of lead in the Turf Products.

12 **PRAYER FOR RELIEF**

13 WHEREFORE, Plaintiffs pray that the Court:

14 1. Pursuant to the First through Third Causes of Action, grant civil penalties
15 according to proof;

16 2. Pursuant to Health and Safety Code section 25249.7 and Business and
17 Professions Code section 17203, enter such temporary restraining orders, preliminary
18 injunctions, permanent injunctions, or other orders prohibiting Defendant from exposing persons
19 within the State of California to lead, caused by the use of their products, without first providing
20 clear and reasonable warnings, as plaintiffs shall specify in further application to the court;

21 3. Enter such orders as "may be necessary to restore to any person in interest any
22 money or property, real or personal, which may have been acquired by means of" these unlawful
23 acts, as provided in Business and Professions Code section 17203 and other applicable laws;

24 4. Award plaintiffs their costs of suit;

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5. Award attorneys' fees and costs at the discretion of the Public Prosecutors pursuant to Health and Safety Code section 25249.7(j).

6. Grant such other and further relief as the court deems just and proper.

Dated: September 2, 2008

Respectfully submitted,

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