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14 Attorneys for Plaintiffs And The Proposed Class

15  
 16 UNITED STATES DISTRICT COURT  
 17 SOUTHERN DISTRICT OF CALIFORNIA

18 PATRICIA COBURN, JIM MOYLEN,  
 and DIANA SIROIS, individuals, on  
 19 behalf of themselves and all others  
 similarly situated,

20 Plaintiffs,

21 vs.

22 LUMBER LIQUIDATORS, INC., a  
 23 Delaware corporation,

24 Defendant.

Case No. '16CV1931 MMAKSC

**CLASS ACTION COMPLAINT  
FOR DAMAGES AND  
INJUNCTIVE RELIEF**

**DEMAND FOR JURY TRIAL**

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1 Plaintiffs, PATRICIA COBURN, JIM MOYLEN, and DIANA SIROIS,  
2 individuals, on behalf of themselves and all others similarly situated, by their  
3 undersigned attorneys, allege the following based upon personal knowledge as to  
4 themselves and their own acts, and upon information and belief as to all other  
5 matters based upon the investigation conducted by and through their attorneys,  
6 which include, among other things, review and analysis of Lumber Liquidators  
7 Holdings, Inc.’s public documents, Securities and Exchange Commission (“SEC”)   
8 filings, web sites, announcements, analysts’ reports and investigative journalist  
9 reports. Plaintiffs believe that substantial evidentiary support will exist for the  
10 allegations set forth herein after reasonable opportunity for discovery.

11 **INTRODUCTION**

12 1. This is a breach of warranty, fraudulent omission/concealment, and  
13 federal and state statutory class action on behalf of a class consisting of all persons  
14 who reside in United States who purchased from Lumber Liquidators, Inc.  
15 (“Lumber Liquidators,” “the Company,” or “Defendant”) laminate flooring products  
16 manufactured in China under the private-label “Dream Home” brand (the  
17 “Laminates”) concerning Plaintiffs’ Third Cause of Action, or alternatively on  
18 behalf of a class of all persons who reside in California for all claims for relief,  
19 seeking to recover damages caused by the Company’s failure to deliver durable  
20 flooring that complied with the specified industry standard contained in the product  
21 description. These products are not durable as represented, and are not merchantable  
22 for general household use because they do not meet the claimed industry standard.  
23 Lumber Liquidators’ failure to disclose that the Laminates were substandard and  
24 defective caused Plaintiffs and the proposed class to overpay for the subject  
25 flooring.

26 2. Lumber Liquidators is one of the largest specialty retailers of hardwood  
27 flooring and laminates in the United States. The Company sells directly to  
28

1 homeowners or to contractors acting on behalf of homeowners through its network  
2 of approximately 300 retail stores in 46 states, including California.

3 **GENERALIZED FACTUAL ALLEGATIONS**

4 3. Prior to Plaintiffs' purchases, Lumber Liquidators extensively  
5 advertised and marketed the Laminates as compliant with an established European  
6 abrasion criteria or class, "AC3," the primary industry standard for durability of  
7 laminate flooring. However, the Laminates are not AC3-compliant or durable.

8 4. An AC3-rated laminate is considered in the industry as suitable for  
9 general household use, including high traffic areas such as hallways and kitchens.

10 5. Lumber Liquidators, on its website, describes the suitability of AC3-  
11 rated laminates as "Residential, Heavy Traffic: Suitable for all areas."

12 6. In the United States, laminates with less than an AC3 rating are not  
13 considered suitable for general household use.

14 7. Plaintiffs sought, were informed and led to believe that they were  
15 buying, and intended to buy, laminate flooring suitable for general household use.

16 8. The "Dream Home" brand is a private-label brand owned, marketed,  
17 and sold exclusively by Lumber Liquidators. The Dream Home brand includes the  
18 St. James, Ispiri, Kensington Manor, and Nirvana flooring lines.

19 9. From time to time, Lumber Liquidators has sourced laminates under the  
20 "Dream Home" brand from plants located in different countries, including the  
21 United States. The Laminates that are the subject to this action are limited to  
22 Lumber Liquidators' Chinese-manufactured laminates.

23 10. Plaintiffs purchased the Laminates through one of Lumber Liquidators'  
24 company-owned retail outlets, based upon express oral representations of the  
25 Laminates' durability, made by Lumber Liquidators sales staff that the Laminates  
26 were "very durable," "extremely durable," "scratch resistant," "harder than  
27 hardwood," "great for pets," "could withstand "high traffic in a residential home,"  
28 "one of Lumber Liquidators' best products," and had a "30 year warranty."

1           11. Plaintiffs and many putative Class Members had, before purchase of  
2 the Laminates, specific concerns regarding the susceptibility of laminate flooring to  
3 scratching from the claws of their pets. Lumber Liquidators told them that they had  
4 nothing to worry about: that the Laminates would stand up to pets, as attested to in a  
5 video posted on its website focused on this very concern.

6           12. Lumber Liquidators has promoted the Laminates through its in-store  
7 management and sales staff, who are trained based on—and are encouraged to  
8 consult and repeat—the product specifications, features, and supposed “advantages”  
9 described on product pages for each of the Laminates on the Lumber Liquidators  
10 web site. Each of the individual Laminates’ product pages describe the Laminate as  
11 meeting the industry AC3 standard.

12           13. The AC3 standard that Lumber Liquidators claims that its Laminates  
13 adhere to is the primary basis upon which:

- 14           a. Its in-store sales staff represents that the Laminates are “durable,” “very  
15 durable,” “extremely durable,” “scratch resistant,” and “harder than  
16 hardwood”;
- 17           b. Its Laminates “landing page” on its website (from which the consumer  
18 can select model-specific web pages containing detailed descriptions of  
19 each model) have represented that the Laminates are each “very  
20 durable” and “very scratch resistant”; and
- 21           c. Lumber Liquidators claims, in its Limited Warranties, that the  
22 Laminates each meet the “industry’s highest standards.”

23           14. Despite Defendant’s pervasive representations, the Laminates are not  
24 AC3 compliant and not durable, as revealed by extensive recent product testing as  
25 part of the investigation leading to this action.

26           15. The failure of the Laminates to meet the industry AC3 standard as  
27 claimed leads to a host of problems for consumers and Plaintiffs as set forth below,  
28 including but not limited to:

- 1 a. Visible and unsightly scratching in normal everyday use, including but
- 2 not limited to pet traffic;
- 3 b. Wear patterns that expose and deteriorate the photographic paper layer
- 4 of the laminate that is supposed to be protected by the wear layer for
- 5 twenty-five to thirty years;
- 6 c. Chipping;
- 7 d. Fading;
- 8 e. Warping; and
- 9 f. Staining.

10 **The Laminates Are Substantially Similar Products**

11 16. Laminate flooring is considered in the industry and by financial  
12 analysts as a commodity product, in the sense that its construction is relatively  
13 uniform across brands and models, with each seller competing largely on the basis  
14 of price.

15 17. As set forth in greater detail below, the Laminates comprise a single  
16 product, which are substantially similar in every way material to the claims  
17 presented herein. The differences among each model of the Laminates are primarily  
18 cosmetic—designed to meet varying interior decoration preferences of consumers  
19 (including color, style of wood grain image, board width, etc.).

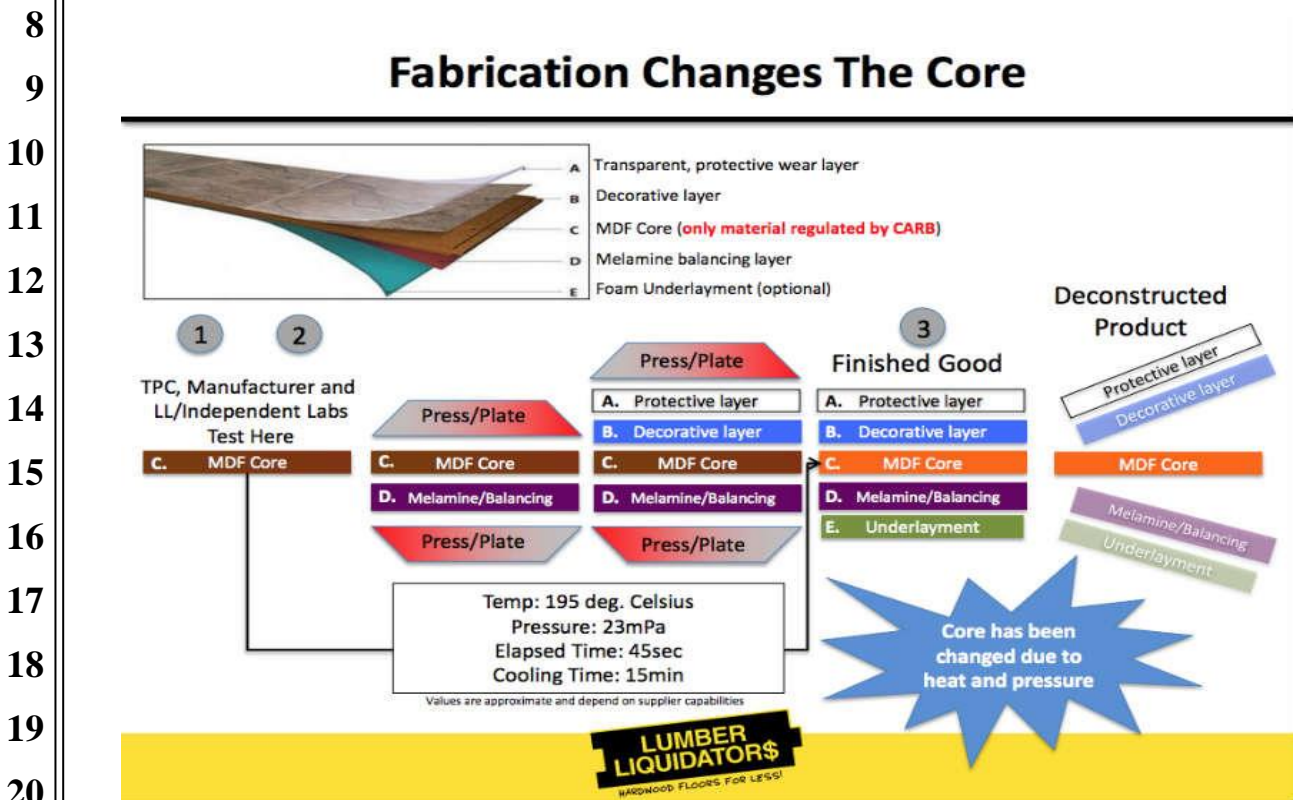
20 18. Typically, laminate flooring sold at retail for residential use is  
21 constructed using four basic layers:

- 22 a. The bottom backing layer (balancing layer) to create a stable and level
- 23 support for the rest of the plank;
- 24 b. On top of the backing layer is a medium density or high density
- 25 fiberboard core, which are frequently referred to in the industry
- 26 interchangeably as MDF or HDF cores;
- 27 c. On top of the core is a decorative layer (photograph paper) of wood
- 28 grain or other pattern; and

1 d. The transparent top layer of a melamine resin, the wear layer, provides  
 2 protection against wear, scratching, staining, and fading.

3 19. The laminate floor is created when the four layers are pressed together  
 4 under pressure and heat. The sheets are then cut into individual planks and  
 5 frequently have tongue and groove edges cut into them.<sup>1</sup>

6 20. An image found on Lumber Liquidators' website confirms that the  
 7 Laminates are substantially similar:



21 This image was created by Lumber Liquidators to advance its position that its  
 22 Chinese-manufactured laminates (the same products as the Laminates) do not  
 23 violate California Air Resources Board regulations for formaldehyde. The fact that  
 24 the Company is able to describe the construction and manufacturing process for

25  
 26 <sup>1</sup> Laminate flooring is frequently installed on underlayment material to  
 27 improve sound or moisture performance, and occasionally such underlayment is pre-  
 28 glued to the backing layer for convenience.

1 each of the Laminates in a single image demonstrates that the Laminates are  
2 substantially similar products.

3 21. The Laminates are distinguished primarily by aesthetic considerations  
4 having to do with the color and wood grain depiction of the decorative layer, the  
5 gloss, the width of the boards, and other variables (including thickness) which do  
6 not materially affect the durability of the various Laminates.

7 **“Durability” And Similar Descriptions Are Based On The AC3 Rating**

8 22. Whether or not a laminate meets the AC3 standard is dependent upon  
9 the thickness, uniformity, and composition of the top wear layer.

10 23. In the residential laminate flooring industry, AC rating is closely  
11 associated with “durability.”

12 24. An example is Pergo. Pergo is the most prominent brand of laminate  
13 flooring sold in the United States. On its website, [www.pergo.com](http://www.pergo.com), under the tab  
14 “Information & Help” and the pick list “FAQs” for the question “How is Pergo  
15 laminate flooring constructed?” is explained:

16 The first component is our patented ScratchGuard Advanced surface  
17 protection, which is comprised of a melamine resin enriched with aluminum  
18 oxide particles for enhanced scratch and scuff protection. In our most  
19 premium performance floors, ScratchGuard Advanced is combined with our  
innovative PermaMax™ wear layer to create a highly durable and wear-  
resistant surface that provides twice the wear and twice the durability\* versus  
ordinary laminates.

20 The asterisk next to “durability” in the above quote references the  
21 following note:

22 \*Wear Claim compared to standard AC-3 laminate flooring and  
23 measured in accordance with NALFA/ANSI LF-01 2011 and/or EN  
13329:2006+A1:2008.”<sup>2</sup>

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26  
27 <sup>2</sup> [https://na.pergo.com/Care\\_Maintenance/faq](https://na.pergo.com/Care_Maintenance/faq) (visited March 1, 2016).

1           25. The term “durable” when used in the retail residential laminate flooring  
2 industry is a reference to—and evaluated by—the relative AC rating of the laminate  
3 flooring product.

4           26. “Durable” when used in the retail residential wood laminate flooring  
5 industry means an AC rating of at least AC3.

6           27. The term “premium” when used in the retail residential laminate  
7 flooring industry is a reference to—and evaluated by—the relative AC rating of the  
8 laminate flooring product.

9           28. “Premium” as used in this industry means an AC rating of at least AC3.

10           29. Lumber Liquidators itself equates its laminates’ AC rating with their  
11 durability. On a webpage published by Defendant on its website no later than May  
12 7, 2013, at <http://www.lumberliquidators.com/blog/whats-an-ac-rating>, Lumber  
13 Liquidators states (emphasis added):

14           Considering some new laminate thanks to your coupon? You  
15 may think the thicker the laminate the better, and the longer the  
16 warranty the longer it will last! That isn’t always the case, though. **So  
17 how do you know which laminate will last in your home (or  
18 commercial space)? Luckily, the European Producers of Laminate  
19 Flooring (EPLF) developed the Abrasion Rating System to give us  
20 a way of determining durability and recommended usage level of  
21 different laminate floors. The common term used to denote the  
22 durability of laminate flooring is the Abrasion Criteria or “AC”  
23 rating.**

24           **So, what exactly do AC ratings tell us? They represent a  
25 laminate’s resistance to abrasion, impact, stains and cigarette  
26 burns. AC ratings also indicate that the product has been tested for  
27 the effects of furniture legs, castors, and swelling along its edges.**  
28           When a laminate flooring product has a rating, then it has passed all of  
the test criteria. Failing just one test will disqualify a product.

          The AC rating levels are designated AC1 through AC5, each  
reflecting the product’s application and durability.

          . . .

**An AC3 for residential use is perfectly adequate. Typically  
the higher the laminate flooring rating, the higher the price may  
be.**

28    ///



1           30. Accordingly, when sellers of residential laminate flooring in the United  
2 States refer to a laminate product as “durable,” “very durable,” “scratch resistant,”  
3 “harder than hardwood,” or “premium,” such representation constitutes a  
4 representation that the subject laminate meets at least the AC3 durability standard.

5           31. Additionally, when Lumber Liquidators made express representations  
6 regarding the durability, scratch resistance and premium quality of the Laminates on  
7 its website, and when it trained its retail store managers and sales staff to describe  
8 the Laminates to shoppers as “durable,” “very durable,” “scratch resistant,” “would  
9 not scratch,” “would not scratch from pet nails,” “harder than hardwood,” “just as  
10 durable as hardwood,” and like representations, it did so based upon its claim that  
11 the product met the AC3 industry standard for durability, including wear resistance.

12 **General Residential Laminate Flooring Must Be AC3 Or Better to Be**  
13 **Merchantable**

14           32. Lumber Liquidators’ primary competition in the residential flooring  
15 market, and in particular the market for laminate flooring, have for many years been  
16 the “big box” stores Lowe's and Home Depot.

17           33. Lowe's and Home Depot, as well as smaller independent flooring  
18 retailers, sell non-private-label laminate flooring in addition to any private-label  
19 laminate that they sell. The following branded laminate flooring manufacturers each  
20 specify a minimum rating of AC3 for the U.S. market: Pergo, Bruce Laminate,  
21 Armstrong Laminate, QuickStep Laminate, and Alloc Laminate.

22           34. Major retail sellers of residential laminate flooring in the United  
23 States—including Lumber Liquidators, Lowe's, and Home Depot—have settled on  
24 AC3 as the suitable minimum product standard in terms of durability for general use  
25 residential flooring.

26           35. Lowe's does not offer any laminate flooring with a durability rating less  
27 than AC3 on its website or in its stores.

28           36. Home Depot’s website offers some 291 laminate flooring models in its

1 “residential” or “commercial-residential” lines, all of which have a rating of AC3 or  
2 higher. Home Depot’s website offers no laminate flooring with a durability rating  
3 under AC3.<sup>3</sup>

4 37. In the market for laminate flooring in the United States, in order for  
5 laminate residential flooring to pass without objection in the trade for general  
6 residential use (including hallways and kitchens), a laminate must meet at least the  
7 AC3 durability standard.

8 **Lumber Liquidators’ Responsibility for Marketing Defective Laminates**

9 38. In January 2011, Lumber Liquidators, whose stock is publically traded,  
10 under the direction of founder, Thomas D. Sullivan, hired Robert M. Lynch as  
11 President and Chief Executive Officer. Lynch brought with him to Lumber  
12 Liquidators William K. Schlegel as the new Chief Merchandising Officer for the  
13 Company.

14 39. Between February 22, 2012, and February 27, 2015, these officers and  
15 Chief Financial Officer Daniel Terrell reported record gross margins which were  
16 significantly higher than its major competitors (Home Depot and Lowe’s). Through  
17 these officers Lumber Liquidators misrepresented that the major driver of its high  
18 margins were legitimate “sourcing initiatives” implemented by the company in  
19 China designed to reduce the cost of goods, cut out middlemen, increase control by  
20 the company, and strengthen relationships with its suppliers.

21 40. Sullivan, Lynch, Schlegel, and Terrell are individual defendants in a  
22 nationwide class action alleging that each of them and the company committed  
23

24 <sup>3</sup> [http://www.homedepot.com/b/Flooring-Laminate-Flooring-Laminate-](http://www.homedepot.com/b/Flooring-Laminate-Flooring-Laminate-Wood-Flooring/N-5yc1vZbejk)  
25 [Wood-Flooring/N-5yc1vZbejk](http://www.homedepot.com/b/Flooring-Laminate-Flooring-Laminate-Wood-Flooring/N-5yc1vZbejk) (visited March 1, 2016). In addition to these 291  
26 laminates, Home Depot’s website lists three Shaw products that are shown as having  
27 an AC2 rating. However none of these models is actually available for purchase  
28 online or in any identifiable store, and Home Depot’s customer care department  
confirms that they are no longer available and have been discontinued.

1 securities fraud in violation, *inter alia*, of Section 10(b) of the Securities Exchange  
2 Act of 1934, 15 U.S. Code § 78j, and SEC Rule 10b-5 promulgated thereunder. *In re*  
3 *Lumber Liquidators Holdings, Inc. Securities Litigation*, Case No. 4:13-cv-00157-  
4 (E.D. Va.). An element of a Section 10(b) securities fraud action is “scienter,”  
5 defined as having either an intent to deceive or having been reckless in the making  
6 of false or misleading representations, or with respect to an omission of material  
7 fact.

8 41. Lynch and Schlegel had extensive prior experience in sourcing  
9 products from Chinese manufacturing plants prior to joining Lumber Liquidators.

10 42. Among flooring retailers, laminates fill a product niche as a relatively  
11 inexpensive alternative to real (natural) solid wood flooring, generally offering the  
12 look of wood at a lower price point. This is the niche that Lumber Liquidators’  
13 Dream Home private-label brand of laminates filled at the company.

14 43. For many years, laminates and solid wood flooring have constituted the  
15 most significant product ranges for Lumber Liquidators in terms of sales.

16 44. Soon after they joined Lumber Liquidators, Lynch and Schlegel  
17 engaged in a so-called “sourcing initiative” regarding Lumber Liquidators’  
18 regarding the Laminates. As part of this initiative, they travelled to China and  
19 conducted “line reviews,” consisting of requiring competing Chinese laminate mills  
20 to re-bid for Lumber Liquidators’ laminate business.

21 45. Lumber Liquidators obtained steep discounts from the Chinese mills  
22 that manufactured the Laminates. After receiving these discounts, Lumber  
23 Liquidators continued to represent to its customers that the Laminates complied with  
24 all regulatory and applicable industry standards, including notably the standards for  
25 formaldehyde emissions established by the California Air Resources Board (“CARB  
26 2”) and the European AC3 durability standard. Lumber Liquidators was selling  
27 substandard laminates as premium products, thereby inflating its margins.

28 ///

1           46. Based on Lynch’s and Schlegel’s prior experience in sourcing products  
2 from China and on widespread industry knowledge by American companies  
3 sourcing products there, Lumber Liquidators knew, or recklessly disregarded, that  
4 negotiating steep price discounts with Chinese manufactures ran a high risk of such  
5 manufacturers cutting corners to reduce manufacturing costs in order to maintain  
6 margin or profits, regardless of the technical requirements of Lumber Liquidators’  
7 supply contracts and product specifications.

8           47. In March 2015, the CBS News program “60 Minutes” broadcast the  
9 findings of its extensive investigation, which included hidden on camera interviews  
10 of several plant managers at Lumber Liquidators’ Chinese suppliers, revealing that  
11 30 out of the 31 boxes of Laminates purchased in the United States by CBS did not  
12 comply with the CARB 2 standard as represented on Lumber Liquidators’ website  
13 and on its Dream Home product labels.

14           48. In an on-camera interview broadcast by CBS 60 Minutes, a plant  
15 manager of one of Lumber Liquidators Laminates suppliers, referring to a package  
16 of Lumber Liquidators’ Dream Home laminate flooring on the plant floor, admitted  
17 that the product was not CARB 2 compliant. He further stated that the plant was  
18 capable of manufacturing CARB 2 laminate, but that it would be more expensive to  
19 do so.

20           49. On May 7, 2015, Lumber Liquidators discontinued all sales of Chinese-  
21 sourced laminates, when it had approximately \$20 million inventory of this product  
22 on hand.

23           50. On December 21, 2015, Judge Arenda L. Wright Allen of the United  
24 States District Court for the Eastern District of Virginia entered a ruling denying  
25 Lumber Liquidators’, Sullivan’s, Lynch’s, and Schlegel’s motions to dismiss the  
26 security fraud claims, finding that the allegations met the heightened pleading  
27 standards for scienter set forth in the Private Securities Litigation Reform Act of  
28 1995. The court did so in part based upon the allegations in the Consolidated

1 Amended Compliant for violation of the Federal Securities Laws in the above-  
2 reference case, summarized above, concerning Lumber Liquidators’ “sourcing  
3 initiatives” and “line reviews” by Lynch and Schlegel, and the Company’s allegedly  
4 false explanations of the nature of its elevated margins for the Laminates, based  
5 upon the sale of cheaper, non-CARB Phase 2 compliant Laminates.

6 51. Similar to the formaldehyde non-compliance of the Laminates (which  
7 is not the basis of any claims made in this action), Lumber Liquidators’ Chinese  
8 suppliers have the capacity to manufacture AC3 laminate flooring, but it is more  
9 expensive to do so (versus manufacturing AC2, AC1, or laminates that fail even the  
10 AC1 standard, such as the Laminates). This is because the incorporation of more  
11 resilient wear layers is more expensive.

12 52. Similar to the formaldehyde non-compliance of the Laminates (which  
13 is not the basis for any claims made in this action), Lumber Liquidators knew that its  
14 Laminates did not comply with AC3, or was reckless in continuing to represent AC3  
15 compliance without independently verifying same, after negotiating discounts with  
16 its Laminates suppliers.

17 53. In a “limited warranty” that Lumber Liquidators contends it extended  
18 to Plaintiffs and all putative Class Members in conjunction with their purchases of  
19 the St. James, Ispiri, Kensington Manor, and Nirvana lines of Dream Home brand  
20 Laminates, Lumber Liquidators states:

21 Each board is meticulously inspected throughout the  
22 manufacturing process to make sure it complies with [St James’s]  
unwavering standards.

23 If these statements are true, then Lumber Liquidators must have known that the  
24 Laminates were not AC3 compliant, as extensive testing has now revealed.

25 54. In its limited warranties for the Laminates, Lumber Liquidators states  
26 that the Laminates are “free of defects.”

27 55. Lumber Liquidators knew that its Laminates did not comply with AC3,  
28 or was reckless in continuing to represent AC3 compliance without independently

1 verifying same after negotiating discounts with its Laminates suppliers.

2 **Defendant's Website and Other Misrepresentations and Omissions**

3 56. When researching Laminate purchase on the Lumber Liquidators'  
4 website, an individual must visit a minimum of two pages shortly before purchasing  
5 these products:

6 a. a laminates "landing page" ("Laminates Landing Page")  
7 describing the Company's wood laminate flooring, including the Laminates, and  
8 containing specific representations; and

9 b. a product-specific page, accessed by clicking on an image or  
10 name shown on the Laminates Landing Page, that provided more particular  
11 specification for each the Laminate product.

12 57. An individual would see the following representations by Lumber  
13 Liquidators on the Laminates Landing Page:

14 a. "Very durable and scratch-resistant;" or

15 b. "Very scratch-resistant."

16 58. Each Laminate product-specific webpage expressly described the  
17 Laminate as having an AC rating of "AC3."

18 59. Defendant's website advertised that the Laminates, including the "St.  
19 James Collection", the "Kensington Manor Collection" and the "Ispiri Collection"  
20 all have an AC rating of "AC3".

21 60. Defendant also represents on its website that the St. James Collection is  
22 "very durable" and comes with a "30 year warranty."

23 61. Defendant also represents on its website that "Kensington Manor is a  
24 premium 12mm laminate" and lists the "Kensington Manor Flooring Advantages",  
25 which include an AC Rating of AC3 and a 30 year warranty.

26 62. Defendant also represents on its website that its Ispiri Collection has  
27 certain superior qualities and ingredients, including, "With its new laminate  
28 manufacturing process called Liquid Oxide High Definition technology the Ispiri

1 Collection has raised the bar on . . . durability." Further, Defendant's website  
2 represents the "Ispiri Collection's Advantages" include an AC rating of AC3 and a  
3 30 year warranty.

4 63. Lumber Liquidators' store managers and staff, who are employees of  
5 Defendant, are trained by Lumber Liquidators to answer customer questions and to  
6 market the Laminates.

7 64. These employees are encouraged and trained to use Lumber  
8 Liquidators product descriptions contained on Defendant's website, including the  
9 Laminate Landing Page and product-specific pages for the Laminates, to describe  
10 the Laminates' characteristics and qualities.

11 65. These employees systematically told customers that the Laminates  
12 were "very durable," or "just as durable as U.S.-made laminates," "would not  
13 scratch," "scratch-resistant," "more durable than hardwood," "harder than  
14 hardwood," "wood not scratch from pet nails," and would "hold up" to pets.

15 66. Defendant, and its employees, failed to disclose to Plaintiffs and to  
16 each putative Class Member that the Laminates were not AC3 compliant, were not  
17 durable, were not scratch-resistant, and would not resist fading, staining, and the  
18 other problems alleged herein relating to the defect.

19 67. On page one of its invoices provided to Plaintiffs at the time of sale,  
20 Lumber Liquidators states that each Laminate comes with a "30 year warranty."  
21 There is no reference on page one of the invoices to a "limited warranty," and no  
22 indication of any limitation to the warranty on this page.

23 68. The invoices do not mention the word "merchantability" as required  
24 under the Uniform Commercial Code as a requirement to disclaim the implied  
25 warranty of merchantability.

26 69. Lumber Liquidators purported "limited warranties" were not presented  
27 to or shown to Plaintiffs at the time of the sale.

28 ///

1           70. Any limitations in the limited warranties fail of their essential purpose,  
2 or are otherwise both procedurally and substantively unconscionable, and therefore  
3 ineffective.

4 **Why Lumber Liquidators Representations Are False**

5           71. Lumber Liquidators' representations that the Laminates meet the  
6 industry AC3 standard are false because the Laminates do not meet this standard.

7           72. Lumber Liquidators' representations that the Laminates are "durable,"  
8 "very durable," "very scratch-resistant," "scratch-resistant," and "harder than  
9 hardwood" and the oral representations listed above and more particularly below are  
10 false because the Laminates do not have these qualities, on account of the defects  
11 alleged herein.

12 **Plaintiffs' Discovery of the Durability Defect**

13           73. Over the past months, samples of Lumber Liquidators' laminate  
14 flooring products have been tested by a certified and accredited laboratory. The  
15 testing method used by the lab is the same standardized test method used worldwide  
16 throughout the flooring industry to determine the AC rating of laminate flooring  
17 products. On information and belief, Lumber Liquidators' laminate flooring,  
18 including St. James African Mahogany 12mm laminate, Kensington Manor Warm  
19 Springs Chestnut 12mm laminate, and Ispiri Heritage Long Length Oak 12mm  
20 laminate, failed to meet the AC3 rating, which was advertised by Lumber  
21 Liquidators.

22           74. Whether a product complies with the AC3 industry standard is not  
23 something that would be apparent to consumers. AC3 testing is expensive and  
24 requires special expertise and equipment not readily available or accessible to a  
25 consumer.

26           75. When Lumber Liquidators, through its customer service department or  
27 through store sales personnel, are approached with durability issues such as  
28 scratching and the other manifestations of the defect alleged herein, it engages in a



1 pattern and practice of delay and obfuscation.

2 76. Lumber Liquidators personnel did not inform Plaintiffs that their  
3 durability problems, as set forth below, resulted from the failure of the Laminate to  
4 meet the claimed AC3 industry standard.

5 77. A common practice at Lumber Liquidators has been to blame durability  
6 problems and defects on:

- 7 a. Installers or installation problems;
- 8 b. Moisture problems;
- 9 c. Normal product variability; and
- 10 d. Product abuse.

11 78. Lumber Liquidators' lawyers recently attributed the detailed product  
12 defect manifestations listed in a prior related proceeding to installation failures,  
13 further continuing the pattern of denial by Lumber Liquidators and confirming their  
14 client's previous pattern. Plaintiffs were also told by Lumber Liquidators  
15 representatives that their flooring's durability issues were due to improper  
16 installation.

17 79. By engaging in a pattern and practice of deflecting durability problems  
18 attributable to the defect alleged herein—failure to meet the claimed industry AC3  
19 standard — or by attributing durability problems to causes other than the defect  
20 (installation, etc.), Lumber Liquidators fraudulently concealed the defect from  
21 Plaintiffs and putative Class Members.

22 80. Plaintiffs and putative Class Members cannot reasonably be charged  
23 with notice of the defect prior to the discovery of widespread supplier problems  
24 relating to Lumber Liquidators' Chinese-sourced Laminates as a result of the  
25 formaldehyde controversy in 2015.

26 81. Defendant sells the Dream Home line of laminate flooring products,  
27 and others, at Lumber Liquidators' 37 retail stores in California, 12 stores in North  
28 Carolina, 28 stores in Texas, 13 stores in New Jersey, 26 stores in Florida, 3 stores

1 in Nevada, 8 stores in Connecticut, 10 stores in Georgia, 16 stores in Illinois, 3  
2 stores in Iowa, 8 stores in Indiana, 4 stores in Kentucky, 5 stores in Louisiana, 10  
3 stores in Massachusetts, 10 stores in Maryland, 3 stores in Maine, 10 stores in  
4 Michigan, 6 stores in Minnesota, 2 stores in Mississippi, 5 stores in Missouri, 2  
5 stores in Nebraska, 19 stores in New York, 13 stores in Ohio, 3 stores in Oklahoma,  
6 20 stores in Pennsylvania, 8 stores in South Carolina, 6 stores in Tennessee, 12  
7 stores in Virginia, 7 stores in Washington, 5 stores in Wisconsin and 3 stores in  
8 West Virginia, and 5 stores in Alabama. Lumber Liquidators also sells these  
9 laminate floor products to consumers through the internet at  
10 [www.lumberliquidators.com](http://www.lumberliquidators.com) and through telephone sales at 1-800-HARDWOOD.

11 82. Plaintiffs seek to represent themselves and all similarly-situated  
12 persons who have purchased Dream Home laminate flooring products from  
13 Defendant in the United States for their Third Cause of Action, as well as all  
14 similarly situated persons who have purchased Dream Home laminate flooring in  
15 California for the First, Second, Fourth, and alternatively Third Causes of Action, at  
16 any time from the date the products were first placed into the marketplace through  
17 the date last sold to the public, reportedly in May 2015 (the "putative class").  
18 Plaintiffs seek damages and equitable relief on behalf of the Class, which relief  
19 includes but is not limited to restitution to the Plaintiffs and Class Members of the  
20 full amount of the purchase price and out-of-pocket expense paid to install their  
21 laminate flooring, the cost of replacing the defective flooring, injunctive relief and  
22 declaratory relief; and any additional relief that this Court determines to be  
23 necessary to provide complete relief to Plaintiffs and the Class.

24 **PARTIES**

25 83. Plaintiff PATRICIA COBURN resides in San Diego, California.

26 84. Plaintiff JIM MOYLEN resides in Elk Grove, California.

27 85. Plaintiff DIANA SIROIS resides in Sonoma, California.

28 ///

1 86. Defendant LUMBER LIQUIDATORS, INC. is a Delaware corporation  
2 with its headquarters and principal place of business at 3000 John Deere Road,  
3 Toano, Virginia. Lumber Liquidators, Inc. distributes, markets, and/or sells the  
4 laminate flooring at issue and actively conducts business in California.

5 **JURISDICTION AND VENUE**

6 87. This Court has subject matter jurisdiction over this action under the  
7 Class Action Fairness Act of 2005, 28 U.S.C. §1332(d)(2) (“CAFA”), in that the  
8 matter is a class action wherein the amount in controversy exceeds the sum or value  
9 of \$5,000,000, exclusive of interest and costs, and members of the Class are citizens  
10 of states different from the Defendant.

11 88. This Court has personal jurisdiction over the parties in this action by  
12 the fact that Defendant is a corporation that is authorized to conduct business in  
13 California and it has intentionally availed itself of the laws and markets of  
14 California through the promotion, marketing, distribution and sale of its laminate  
15 wood flooring products. Plaintiffs purchased their laminate flooring from Lumber  
16 Liquidators in San Diego, California; Rancho Cordova, California; and Santa Rosa,  
17 California.

18 89. Venue is proper in this District pursuant to 28 U.S.C. §1391(b),  
19 because a substantial part of the events or omissions giving rise to Plaintiffs' claims  
20 occurred in this District. Venue is also proper under 18 U.S.C. §1965(a), because  
21 Defendant transacts a substantial amount of its business in this District.

22 **PARTICULARIZED FACTUAL ALLEGATIONS**

23 90. On or about September 13, 2014 and November 6, 2014, Plaintiff  
24 Patricia Coburn purchased St. James African Mahogany 12mm laminate flooring  
25 from Lumber Liquidators' store # 1040 located in San Diego, California.  
26 Defendant's webpage for St. James African Mahogany 12mm laminate represents  
27 that "at 12mm, the St. James Collection is very durable and comes with a 30 year  
28 warranty!" The landing page immediately before the page for the St. James African

1 Mahogany 12mm laminate stated that Lumber Liquidators' laminate flooring is  
2 "very durable and scratch resistant." Defendant's webpage also advertises that this  
3 product has an AC rating of "AC3" and a 30 year warranty. On the day of her  
4 purchase, Plaintiff asked the Lumber Liquidators' salesman if the St. James African  
5 Mahogany 12mm laminate was a "durable" flooring. The salesperson told plaintiff  
6 that the laminate was "very durable" and "scratch resistant". He told plaintiff that  
7 he "highly recommended" the laminate and that she "would not be disappointed."  
8 Plaintiff relied upon the above-referenced representations in making her decision to  
9 purchase this product from Defendant. However, soon after installation, Plaintiff  
10 noticed buckling of her flooring, the edges lifting and scuff marks and foot prints  
11 that will not go away. Ms. Coburn has used Defendant's product as it was intended  
12 to be used for normal residential traffic, but the flooring does not withstand normal  
13 wear and tear during normal use and has failed and deteriorated long before its  
14 advertised useful life. Ms. Coburn would not have purchased the St. James African  
15 Mahogany 12mm laminate product had she known that it was defective, not durable,  
16 and had an inferior ability to withstand abrasion, scratches, buckling and edge  
17 curling.

18 91. On the two occasions that she purchased her flooring, Ms. Coburn  
19 received two-page invoices. The first page of the invoices mentioned a "30 year  
20 warranty." The second page of the invoices recited a disclaimer of all other implied  
21 and express warranties, but did not mention the warranty of merchantability. The  
22 second page of the invoice included a signature line but it was left blank.

23 92. On or about July 12, 2014 and August 8, 2014, Plaintiff Jim Moylen  
24 purchased Kensington Manor Warm Springs Chestnut 12mm laminate flooring from  
25 Lumber Liquidators' store # 1034 located in Rancho Cordova, California.  
26 Defendant's webpage for Kensington Manor Warm Springs Chestnut 12mm  
27 laminate represents that "Kensington Manor is a premium 12mm laminate" with a  
28 "30 Year Warranty." The landing page immediately before the page for the

1 Kensington Manor Warm Springs Chestnut 12mm laminate stated that Lumber  
2 Liquidators' laminate flooring is "very durable and scratch resistant." Defendant's  
3 webpage also advertises that this product has an AC rating of "AC3" and a 30 year  
4 warranty. On the day of his purchase, Plaintiff told the Lumber Liquidators'  
5 salesman that he and his wife had dogs. Thus, they needed a "durable" flooring  
6 material that would hold up to scratching. The Lumber Liquidators' salesman  
7 recommended the Kensington Manor Warm Springs Chestnut 12mm laminate. He  
8 said it was a "durable" flooring and that it would be "no problem" holding up to  
9 dogs. Plaintiff relied upon the above-referenced representations in making his  
10 decision to purchase this product from Defendant. However, soon after installation,  
11 Plaintiff noticed scratching, fading and peeling of his flooring. Mr. Moylen has  
12 used Defendant's product as it was intended to be used for normal residential traffic,  
13 but the flooring does not withstand normal wear and tear during normal use and has  
14 failed and deteriorated long before its advertised useful life. Mr. Moylen would not  
15 have purchased the Kensington Manor Warm Springs Chestnut 12mm laminate  
16 product had he known that it was defective, not durable, and had an inferior ability  
17 to withstand abrasion, scratches, fading and peeling.

18 93. On the two occasions that he purchased his flooring, Mr. Moylen  
19 received two-page invoices. The first page of the invoices mentioned a "30 year  
20 warranty." The second page of the invoices recited a disclaimer of all other implied  
21 and express warranties, but did not mention the warranty of merchantability. The  
22 second page of the invoice included a signature line but it was left blank.

23 94. On or about July 7, 2013, Plaintiff Diana Sirois purchased Ispiri  
24 Heritage Long Length Oak 12mm laminate flooring from Lumber Liquidators' store  
25 # 1233 located in Santa Rosa, California. Defendant's webpage for Ispiri Heritage  
26 Long Length Oak 12mm laminate represents that "the Ispiri Collection has raised  
27 the bar on the quality and beauty of laminate flooring". The landing page  
28 immediately before the page for the Ispiri Heritage Long Length Oak 12mm

1 laminate product stated that Lumber Liquidators' laminate flooring is "very durable  
2 and scratch resistant." Defendant's webpage, which Plaintiff visited before her  
3 purchase, also advertises that this product has an AC rating of "AC3" and a 30 year  
4 warranty. Prior to her purchase, Plaintiff conducted research on Lumber Liquidators'  
5 website to investigate the durability of different laminates. Plaintiff recalls reading  
6 Lumber Liquidators' representations on its website that the Ispiri Heritage Long  
7 Length Oak 12mm laminate was a durable laminate and carried an AC3 rating.  
8 Plaintiff relied upon the above-referenced representations in making her decision to  
9 purchase this product from Defendant. However, soon after installation, Plaintiff  
10 noticed scratching and cracking of her flooring. Ms. Sirois has used Defendant's  
11 product as it was intended to be used for normal residential traffic, but the flooring  
12 does not withstand normal wear and tear during normal use and has failed and  
13 deteriorated long before its advertised useful life. Ms. Sirois would not have  
14 purchased Ispiri Heritage Long Length Oak 12mm laminate product had she known  
15 that it was defective, not durable, and had an inferior ability to withstand abrasion,  
16 scratches and cracks.

17 95. At the time she purchased her flooring, Ms. Sirois received a two-page  
18 invoice. The first page of the invoice mentioned a "30 year warranty." The second  
19 page of the invoice recited a disclaimer of all other implied and express warranties,  
20 but did not mention the warranty of merchantability. The second page of the invoice  
21 included a signature line but it was left blank.

22 **CLASS ALLEGATIONS**

23 96. This action may properly be maintained as a class action pursuant to  
24 Federal Rules of Civil Procedure Rule 23. The Class is sufficiently numerous, since  
25 it is estimated to include tens of thousands of consumers, the joinder of whom in one  
26 action is impracticable, and the disposition of whose claims in a class action will  
27 provide substantial benefits to the parties and the Court.

28 ///

1           97. Class Definition: Without prejudice to later revisions, the Class  
2 Plaintiffs seek to represent is composed of:

3           a. All persons in the United States who purchased the Laminates  
4 from Defendant. This proposed class is only for Plaintiffs' Third Cause  
5 of Action; and,

6           b. All persons who purchased in California the Laminates from  
7 Defendant. This proposed class includes Plaintiffs' First, Second,  
8 Fourth, Fifth and Sixth Causes of Action, and alternatively includes  
9 Plaintiffs' Third Cause of Action.

10          98. Excluded from the Class are governmental entities, Defendant, its  
11 affiliates and subsidiaries, Defendant's current and former employees, officers,  
12 directors, agents, representatives, their family members, and the members of the  
13 Court and its staff.

14          99. Throughout discovery in this litigation, Plaintiffs may find it  
15 appropriate and/or necessary to amend the definition of the Class. Plaintiffs reserve  
16 the right to amend the Class definitions if discovery and further investigation reveal  
17 that the Class should be expanded or otherwise modified.

18          100. Class Members Are Numerous: While Plaintiffs do not know the exact  
19 number of Class Members, Plaintiffs are informed and believe that there are  
20 thousands of Class Members. The precise number of members can be ascertained  
21 through discovery, which will include Defendant's sales, service and other business  
22 records. The Class is so numerous that the individual joinder of all members of the  
23 Class is impractical under the circumstances of this case.

24          101. Common Questions of Law and Fact Predominate: There is a well-  
25 defined community of interest among the Class. The questions of law and fact  
26 common to the Class predominate over questions that may affect individual Class  
27 Members. These questions of law and fact include, but are not limited to, the  
28 following:

- 1 a. Whether Defendant's laminate flooring is defective when used as  
2 intended or in a reasonably foreseeable manner;
- 3 b. Whether Defendant's laminate flooring has an AC Rating less than  
4 AC3;
- 5 c. Whether Defendant's laminate flooring was fit for its intended purpose;
- 6 d. Whether Defendant has breached the implied warranty of fitness for a  
7 particular purpose;
- 8 e. Whether Defendant has breached the implied warranty of  
9 merchantability;
- 10 f. Whether Defendant knew that its laminate flooring was defective and  
11 had an Abrasion Class rating of less than AC3;
- 12 g. Whether Defendant omitted and concealed material facts from its  
13 communications and advertising to Plaintiffs regarding the durability of  
14 its laminate flooring;
- 15 h. Whether Defendant falsely advertised that its laminate flooring  
16 products were "AC3" rated, "very durable" and "very scratch-resistant"  
17 when in fact they were not;
- 18 i. Whether Defendant's misrepresentations or omissions constitute unfair  
19 or deceptive practices under California's consumer protection statute;
- 20 j. Whether Plaintiffs and proposed Class Members have been harmed and  
21 the proper measure of relief;
- 22 k. Whether Plaintiffs and proposed Class Members are entitled to an  
23 award of punitive damages, attorneys' fees and expenses against  
24 Defendant; and
- 25 l. Whether, as a result of Defendant's misconduct, Plaintiffs are entitled to  
26 equitable relief, and if so, the nature of such relief.

27 102. Typicality: Plaintiffs' claims are typical of the claims of the members of  
28 the proposed class. Plaintiffs and all Class Members have been injured by the same  
wrongful practices of Defendant. Defendant made the same uniform representations  
on its website and on the labels affixed to their product packaging. Plaintiffs are  
informed and believe that these representations were made by Defendant nationally  
and throughout California, on its website, and other forms of advertisements which  
were identical. Plaintiffs' claims arise from the same practices and conduct that give  
rise to the claims of all Class Members and are based on the same legal theories.

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1           103. Adequacy: Plaintiffs will fairly and adequately represent and protect  
2 the interests of the Class in that they have no disabling conflicts of interest that  
3 would be antagonistic to those of the other members of the Class. Plaintiffs seek no  
4 relief that is antagonistic or adverse to the members of the Class and the  
5 infringement of the rights and the damages they have suffered are typical of all other  
6 Class Members. Plaintiffs have retained attorneys experienced in consumer class  
7 actions and complex litigation as counsel.

8           104. Superiority: The disposition of Plaintiffs' and proposed Class Members'  
9 claims in a class action will provide substantial benefits to both the parties and the  
10 Court. The nature of this action and the nature of laws available to Plaintiffs and the  
11 Class make the use of the class action device a particularly efficient and appropriate  
12 procedure to afford relief to Plaintiffs and the Class for the wrongs alleged because:

13           a. The individual amounts of damages involved, while not  
14 insubstantial, are such that individual actions or other individual  
15 remedies are impracticable and litigating individual actions  
16 would be too costly;

17           b. If each Class Member was required to file an individual lawsuit,  
18 the Defendant would necessarily gain an unconscionable  
19 advantage since they would be able to exploit and overwhelm the  
20 limited resources of each individual Class Member with vastly  
21 superior financial and legal resources;

22           c. The costs of individual suits could unreasonably consume the  
23 amounts that would be recovered;

24           d. Given the size of individual proposed Class Members' claims and  
25 the expense of litigating those claims, few, if any, proposed  
26 Class Members could afford to or would seek legal redress  
27 individually for the wrongs Defendant committed against them  
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- and absent proposed Class Members have no substantial interest in individually controlling the prosecution of individual actions;
- e. This action will promote an orderly and expeditious administration and adjudication of the proposed class claims, economies of time, effort and resources will be fostered and uniformity of decisions will be insured;
  - f. Without a class action, proposed Class Members will continue to suffer damages, and Defendant's violations of law will proceed without remedy while Defendant continues to reap and retain the substantial proceeds of its wrongful conduct;
  - g. Plaintiffs know of no difficulty that will be encountered in the management of this litigation that would preclude its maintenance as a class action;
  - h. Proof of a common business practice or factual pattern which Plaintiffs experienced is representative of that experienced by the Class and will establish the right of each member of the Class to recover on the causes of action alleged; and
  - i. Individual actions would create a risk of inconsistent results and would be unnecessary and duplicative of this litigation.

105. Plaintiffs and Class Members have all similarly suffered irreparable harm and damages as a result of Defendant's unlawful and wrongful conduct. This action will provide substantial benefits to Plaintiffs, the Class and the public because, absent this action, Plaintiffs and Class Members will continue to suffer losses, thereby allowing Defendant's violations of law to proceed without remedy and allowing Defendant to retain proceeds of its ill-gotten gains.

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**FIRST CAUSE OF ACTION**

**Breach of Implied Warranty**

106. Plaintiffs individually and on behalf of all others similarly situated, adopt and incorporate by reference all foregoing allegations as though fully set forth herein.

107. Defendant impliedly warranted that the Laminates were merchantable, fit for their intended purpose and suitable for general residential use, including high traffic areas.

108. The Laminates are not merchantable. In breach of the implied warranty of merchantability, the Laminates are defective because they do not have an AC rating of AC3, prematurely fail due to scratches, impacts, warping, fading, stains and edge curling and are not suitable for general residential use.

109. The Laminates were defective when they left Defendant's control and entered the market.

110. The Laminates' defects were not open and/or obvious to consumers.

111. Any purported disclaimer or limitation of the duration and scope of the implied warranty of merchantability given by Defendant is ineffective, not conspicuous, unreasonable, unconscionable and void, because Defendant knew or recklessly disregarded that the defect in the Laminates existed and might not be discovered, if at all, until the flooring had been used for a period of time, and Defendant willfully withheld information about the defect from purchasers of flooring. Moreover, due to the unequal bargaining power between the parties, Plaintiffs and the proposed Class Members had no meaningful alternative to accepting Defendant's attempted pro forma limitation of the duration of any warranties.

112. Defendant received notice that the Laminates were not merchantable through Plaintiffs' written complaints to Lumber Liquidators, their correspondence, its own product testing, its "robust Quality Assurance program," numerous customer

1 complaints, and its customer service and warranty operations, and through a putative  
2 class action filed in Los Angeles well before Plaintiffs and proposed Class Members  
3 filed suit. Defendant has had adequate and reasonable opportunity to cure its  
4 breaches but has failed to do so.

5 113. As a result, Plaintiffs and all proposed Class Members have been  
6 damaged in, *inter alia*, the amount they paid to purchase and replace Defendant's  
7 un-merchantable laminate flooring.

## 8 SECOND CAUSE OF ACTION

### 9 **Fraudulent Concealment**

10 114. Plaintiffs individually and on behalf of all others similarly situated,  
11 adopt and incorporate by reference all foregoing allegations as though fully set forth  
12 herein.

13 115. Defendant represented on its website that its Nirvana line of laminate  
14 flooring products have an Abrasion Class rating of AC3 and a "25 year warranty".  
15 Defendant also represented on its website that its St. James Collection line of  
16 laminate flooring products is "very durable" and the "St. James Collection's  
17 Advantages" include an Abrasion Class rating of "AC3" and a "30 Year Warranty".  
18 Defendant also represented that its Kensington Manor Collection line of laminate  
19 flooring products is a "premium 12 mm" laminate product line and that the  
20 "Kensington Manor Collection Advantages" include an AC rating of AC3 and a "30  
21 Year Warranty". Defendant also represented on its website that its Ispiri Collection  
22 line of laminate flooring "has raised the bar on . . . durability." Defendant's website  
23 also represents the "Ispiri Collection's Advantages" include an AC rating of AC3  
24 and a 30 Year Warranty. Further, the product packaging of all of Defendant's Dream  
25 Home brand of laminate flooring states it comes with a "30 Year Warranty."

26 116. Plaintiffs are informed and believe that Lumber Liquidators knew, or  
27 recklessly disregarded that the Laminates were defective based upon hundreds of  
28 complaints posted by Lumber Liquidators' customers on websites, including but not

1 limited to, [www.ths.gardenweb.com](http://www.ths.gardenweb.com), [www.consumeraffairs.com](http://www.consumeraffairs.com), [www.complaintlist.com](http://www.complaintlist.com),  
2 [www.my3cents.com](http://www.my3cents.com) and others, which describe scratching, bubbling, delaminating,  
3 peeling and curling of Lumber Liquidators' Dream Home laminate flooring identical  
4 to the damages suffered by Plaintiffs herein.

5 117. For example, on June 1, 2005, "kitchenlover" posted the following  
6 question on [www.ths.gardenweb.com](http://www.ths.gardenweb.com):

7 "Anyone used the Dream Home laminate from LL?"

8 118. On or about September 14, 2005 "pat111153" responded to the above-  
9 referenced question by posting the following, in relevant part, on  
10 [www.ths.gardenweb.com](http://www.ths.gardenweb.com):

11 "...chips show up on edges later...."

12 119. On or about January 25, 2007, "sammyswife" posted the following  
13 another response on [www.ths.gardenweb.com](http://www.ths.gardenweb.com):

14 "I HATE this flooring!! Does anyone have the Dream Home parent company  
15 info? LL is no help! The salesman incorrectly told us how to install it. After a year  
16 of it being down, we are ripping it up because it looks horrible! It chips and peels  
17 and is awful! LL blames our installation, but thanks to their own people, we cannot  
18 get anywhere with the so-called warranty. I want to write the company directly and  
19 can't seem to find them anywhere. If anyone knows a link or number of where I can  
20 call, please email me at [redacted for privacy], thanks!"

21 120. On or about June 12, 2011 "grandpe02" posted his/her response on  
22 [www.ths.gardenweb.com](http://www.ths.gardenweb.com):

23 "I recently purchased (*sic*) 1000sq ft. of dream home French oak. Big  
24 mistake. LL was no help at all. The boards were very warped and chipped after  
25 laying. And it can't be cleaned without leaving streaks. And seems LL they have  
26 never heard this from anyone before. Wish I would have checked out the internet  
27 first. This stuff is garbage..."

28 121. On or about April 11, 2013, "poorchoice" posted his response on  
29 [www.ths.gardenweb.com](http://www.ths.gardenweb.com) as follows:

30 "Finished laying Dream Home Nirvana Plus on Saturday. Job went well and  
31 Wife was pleased. Floor was beautiful with tight joints and a warm rich color.  
32 While replacing furniture, Wife dragged a plant with a plastic saucer under it and  
33 made some scratches across the middle of the room. Scratches are not too bad, but  
34 raised suspicions. I moved the recliner, which has plastic pads on it to find that in  
35 just 4 days the laminate is worn through the 'warm rich color'. Wife says the  
36 salesman said that this stuff wont scratch with anything but a knife. LL warrants it

1 for foot traffic for 25 years, so I guess you are supposed to keep it covered except  
2 where you walk. I have some question about its longevity since the recliner wore  
through to white in 4 days...."

3 122. On or about November 4, 2013, "KDraper" posted his response as  
4 follows on [www.ths.gardenweb.com](http://www.ths.gardenweb.com):

5 "We had this product professionally installed. HATE it. Six months after it  
6 was put in we started seeing areas delaminate. Some were high traffic some were  
7 low/no traffic...We contacted the company through LL. Their answer was we our  
area was either too wet or too dry and it wasn't their problem that we had almost  
1000sf of this flooring that looked like crap. I will never use LL again...."

8 On [www.complaintslist.com](http://www.complaintslist.com) "Pat" wrote on April 23, 2013:

9 "When we went there, we were met by the store manager, 'Dave' (He was  
10 very sick at the time, remember!) and informed him we were looking for a floor that  
would not scratch as we had two small dogs. Dave showed us some flooring  
11 samples and said to us, 'it will not scratch from your dogs, I have a dog and the same  
flooring in my house and mine has no scratches.' Well not more than two weeks  
12 after it was installed, we noticed scratches on the floor."

13 123. On [www.mythreecents.com](http://www.mythreecents.com), "AllenB" wrote on November 23, 2009:

14 "Spent almost 10,000 dollars on a prefinished floor by Lumber Liquidators.  
After only a week of normal use I notices serious scratching. I took closer notice  
15 and marked over 100 scratches on these floors, many all the way through the finish!  
Three salesman we spoke to before buying this product all answered the same  
16 questions we asked, 'Will our dogs or children scratch this floor with their normal  
use?' They assured me we would have no problem, explained how these floors are  
17 ideal with pets and even gave us promotional material that showed a large dog on  
this floor."

18 124. On [www.mythreecents.com](http://www.mythreecents.com), "JR in Arizona" wrote on March 20, 2010:

19 "In 2007 I bought the Asian Birch Flooring. Within 6 months it started to  
20 delaminate. It is engineered wood flooring. I finally made a complaint to LL asking  
for repairs where the floor is clearly separating from the wood backing...After a  
21 week they sent me a letter saying they were not responsible. I guess they get to  
rewrite their warranties as they please."

22 125. In response to this complaint, Lumber Liquidators posted the following  
23 response on March 29, 2010, proving it was monitoring customer complaints on this  
24 website:

25 "If we had someone take photos of the flooring it would have been in support  
26 of your warranty as a need to hold a manufacturer accountable for quality should a  
defect be found. Flooring will react to changing conditions and we not the invoice,  
27 warranty and installation instructions, as well as some boxes also note requirements  
for maintaining ideal conditions. The problem is most consumers don't read this  
28 information until a problem occurs...a little too late, then expect LL to compensate  
for issues out of our control...In some situations we even send a complimentary box

1 to help with repairs, but it sounds like the problem was not with the flooring, but  
2 rather some installation or site condition...I'm sorry to hear this lead to some  
3 dissatisfaction as the problem would be the same no matter where you shopped; you  
4 would most likely pay more elsewhere. Read the information provided – Dan  
5 Gordon often provides some good advice as well with his replies – Bob Villa also  
6 knows how important it is to read the installation instructions/warranty."

7 126. On [www.consumeraffairs.com](http://www.consumeraffairs.com), Lana of Trabuco Canyon, CA wrote on  
8 August 6, 2015:

9 "Warranty claim unresolved due to company unresponsiveness spanning 8  
10 months. We noticed some surface chipping away on a little area in the formal living  
11 room that we rarely use. It had been only 2.5 years from purchasing the engineered  
12 wood with a 30 year warranty. We initiated the warranty process with the worst  
13 encounters of customer service that I have experienced. For the last 8 months we  
14 have experienced months of delays, avoidance, ignored, and being forwarded to  
15 multiple customer service representatives. Matt, representative of Lumber  
16 Liquidators stated that it was impossible that it was Lumber Liquidator's faulty  
17 wood and that it was the installers fault just by looking at the pictures.

18 I researched online regarding warranty claims of customers of Lumber  
19 Liquidators and that it is their reasoning to other customers regarding warranty  
20 claims. Note this is prior to any inspection that Matt came to the conclusion. Rather  
21 insulting when myself and fiancé had to deal with 8 months of delays, avoidance,  
22 being ignored, and being forwarded to multiple customer service representatives just  
23 to have him state that via e-mail. We're taking them to small claims court but, I just  
24 want potential customers or customers their actual warranty practices and poor  
25 customer service because Lumber Liquidators advertises warranty and customer  
26 service as their key points to why customers go to them."

27 127. On [www.consumeraffairs.com](http://www.consumeraffairs.com) Will of Sandia Park, NM wrote on June  
28 10, 2015:

"We purchased America's Mission Olive 12mm laminate flooring from  
Lumber Liquidators in December of 2014 and had it installed throughout our home  
(except bathrooms) in our new remodel. We chose this floor after speaking with  
their sales people who convinced us that this is a very durable floor, which would  
hold up great to pets and kids. We had the floors installed by a professional and  
were very happy with the results for about a month. That was when we started  
noticing the chips all over the floor and the bubbling along the edges of the planks.  
If a drop of liquid came into contact with these floors, even if wiped up  
immediately, the surface of the product would start to peel away from the backing.  
And anytime anything was dropped on the floor they would chip.

We were extremely disappointed because these floors had been sold to us as  
being extremely durable and multiple employees at the Albuquerque store told us  
that they would be great for a family with pets and kids. We contacted their  
customer care line, sure that they would make this right since this was obviously a  
misrepresentation of the product they were selling. We figured that a company this  
large would have some pride in their products and stand behind what they sold.  
Unfortunately this has not been the case at all.

1 After jumping through hoops we were told to send them a box of our  
2 unopened flooring. We did this and a few days later we contacted with an "it's not  
3 our fault" letter. They said that they had done internal testing and that based off of  
4 the pictures we had sent them and their "internal testing" it was moisture damage.  
5 The funny thing is that we didn't even send pictures of the bubbling from moisture,  
6 we had just send pictures of the chipping. This showed us that they hadn't even  
7 bothered to review our claims before writing us off!!

8 After this, we requested to see the report on our floors from their "internal  
9 tests" and were told "there is no report, just a notation made on the file that the  
10 issues of concern are not manufacturing related. I don't know what the inspection  
11 process is except for what I have already shared with you as this is done by a  
12 separate entity." ARE YOU KIDDING ME?? What reputable, ethical company runs  
13 "internal testing" and doesn't document it? At this point we were very frustrated  
14 with the company because it is obvious that they have been giving us the runaround.  
15 So after many more emails and calls (most of which were never even  
16 acknowledged) we were told they would send out a "third party inspector". The  
17 inspector finally came and took some pictures and moisture readings and left  
18 without giving us any information.

19 We were contact by Lumber Liquidators a few days later with another not  
20 saying it is all moisture related and not their fault. However, their own warranty  
21 states that "Your Ispiri floor is warranted against finish wear from normal household  
22 conditions resulting in exposure of the paper layer". This is exactly what is  
23 happening in our home! We have since asked multiple times to see a copy of the  
24 report be the "third party inspector" and have been ignored. We have also requested  
25 multiple times to speak with a supervisor, only to be ignored each time.

26 I would never recommend Lumber Liquidators to anyone. In fact, I will be  
27 doing just the opposite. For the amount of money we spent it would be nice if they  
28 would stand behind their product and make sure their customers were satisfied and  
that they were selling good quality product, but unfortunately this is not the case at  
all."

128. Plaintiffs are informed and believe that Lumber Liquidators' website  
advertising its Dream Home brand of laminate flooring products includes a video  
testimonial which features a family with two dogs and two cats, and the Lumber  
Liquidators' salesman shown on that video claims, "Kensington Manor has a high,  
high durability factor. That's something people are looking for when they have  
animals." The screen shot of the video depicting a large dog appears on every  
webpage for the Dream Home line of laminate flooring products, implying that  
these products are durable enough to withstand scratches from pet traffic.

129. Defendant concealed and suppressed material facts concerning the  
durability of its Dream Home laminate flooring products. Defendant failed to  
disclose that its Dream Home laminate flooring products were defective, not AC3



1 rated, not "very durable", were not "premium" and would scratch, fade, stain,  
2 bubble, delaminate and curl during ordinary residential foot and pet traffic. As  
3 alleged above, the Laminates were defective, were of a lesser quality than advertised  
4 and had an inferior ability to withstand abrasion than advertised. These facts were  
5 not known to Plaintiffs and the proposed Class at the time of their purchase. These  
6 omitted and concealed facts were material because they directly impact the useful  
7 life and durability of the products.

8 130. Alternatively, Defendant intentionally failed to disclose the fact that the  
9 Laminates were defective in that they were not fit for their intended use, a fact only  
10 known to Defendant. Plaintiffs and the proposed Class could not have discovered it  
11 through the exercise of reasonable diligence. Plaintiffs are informed and thereon  
12 believe that Defendant knew of the durability defects of the Laminates from its  
13 product testing and Defendant's self-proclaimed "robust Quality Assurance  
14 program" performed prior to placing the laminate flooring products into the stream  
15 of commerce.

16 131. Plaintiffs and the proposed Class reasonably relied on Defendant's  
17 representations. Defendant knew or ought to have known that Plaintiffs and the  
18 proposed Class relied and/or would have reasonably relied upon Defendant to sell  
19 laminate wood flooring products in which the entire lifetime of the goods could be  
20 fully used without prematurely becoming damaged and/or failing. Defendant's  
21 knowledge that its laminate flooring products were not fit for their intended use,  
22 combined with Defendant's knowledge that Plaintiffs and the proposed Class relied  
23 upon Defendant to communicate the true durability, or lack thereof, of its laminate  
24 flooring products creates a legal obligation on Defendant's part to disclose to  
25 Plaintiffs and the Class these facts. Defendant is in a superior position to know the  
26 truth about, and the nature of, the durability and useful life of its laminate flooring  
27 products.

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1           132. Defendant intended to deceive Plaintiffs and the Class by failing to  
2 disclose that it's laminate flooring products are not fit for their intended purpose,  
3 will fail prematurely long before the end of the 25 and 30 year warranty periods,  
4 were not "very durable" and do not have the AC3 rating.

5           133. Defendant's failure to disclose these facts was material. Plaintiffs and  
6 the proposed Class would not have purchased their laminate flooring had they  
7 known that their laminate flooring products were not fit for their intended use,  
8 would prematurely fail long before the end of the 25 and 30 year warranty periods,  
9 were not "very durable" and did not have an AC rating of AC3.

10           134. Plaintiffs and the proposed Class were harmed. As a proximate result of  
11 Defendant's conduct as set forth in this cause of action, Plaintiffs and the proposed  
12 Class will now be required to remove and replace their defective and damaged  
13 laminate flooring.

14           135. Defendant's concealment was a substantial factor in causing that harm.

15           136. The wrongful conduct of Defendant, as alleged herein, was willful,  
16 oppressive, immoral, unethical, unscrupulous, substantially injurious, malicious,  
17 and/or in conscious disregard for the wellbeing of Plaintiffs and the proposed Class.  
18 Defendant intended to cause injury to the Plaintiffs and the proposed Class placing  
19 profits over providing a higher quality product which was advertised to Plaintiffs.  
20 Defendant engaged and continues to engage in despicable conduct with a willful and  
21 conscious disregard of the rights or safety of others. Defendant subjected, and  
22 continues to subject, Plaintiffs and the proposed Class to cruel and unjust hardship.  
23 Accordingly, Plaintiffs and the proposed Class members are entitled to an award of  
24 punitive damages against Defendant in an amount to deter it from similar conduct in  
25 the future.

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**THIRD CAUSE OF ACTION**

**Violation of The Magnuson-Moss Warranty Act**

**15 U.S.C. §§ 2301, et seq.**

**(On behalf of the National Class, or alternatively, the California Class)**

137. Plaintiffs individually and on behalf of all others similarly situated, adopt and incorporate by reference all foregoing allegations as though fully set forth herein.

138. Plaintiffs bring this claim on behalf of themselves and on behalf of each and every member of the proposed Class.

139. Plaintiffs and the other members of the Class are "consumers" within the meaning of the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301(3).

140. Lumber Liquidators is a "supplier" and "warrantor" within the meaning of 15 U.S.C. § 2301(4)-(5).

141. Lumber Liquidators' Dream Home proprietary line of laminate flooring products was purchased separate and apart from the initial construction of the homes of the Plaintiffs and the members of the proposed Class into which it was installed and constitutes a "consumer product" within the meaning of 15 U.S.C. § 2301(1).

142. Pursuant to section 2308(a) of the Magnuson-Moss Warranty Act, "No supplier may disclaim or modify . . . any implied warranty to a consumer with respect to such consumer product if (1) such supplier makes any written warranty to the consumer with respect to such consumer product, . . ."

143. Furthermore, section 2308(c) provides that "A disclaimer, modification, or limitation made in violation of this section shall be ineffective for purposes of this chapter and State law."

144. Lumber Liquidators' express warranties and written affirmations of fact regarding the durability and level of performance over time of the Laminates constitutes a written warranty within the meaning of 15 U.S.C. § 2301(6)(A).

///

1 145. Lumber Liquidators breached its warranties (express and implied) by  
2 manufacturing, selling, and/or distributing the Laminates that are not "very durable",  
3 not "scratch resistant," which fail prematurely long before the expiration of the  
4 stated warranty duration, and have an Abrasion Class rating below "AC3", without  
5 knowledge of the truth of such representations.

6 146. Defendant further violated 15 U.S.C. §2302 by failing to make a full  
7 and conspicuous disclosure of the terms and conditions of the 25 and 30 year  
8 warranties advertised on Defendant's website and on page 1 of the Invoice in the  
9 product description of Laminates sold to Plaintiffs and the Members of the proposed  
10 Class.

11 147. Lumber Liquidators breached its warranties to Plaintiffs and the  
12 members of the proposed Class because these written affirmations of fact or written  
13 promises made in connection with the sale of the Laminates relate to the nature of  
14 the material and affirms or promises that such material will meet a specified level of  
15 performance over a specified period of time and in fact fail to do so. 15 U.S.C.  
16 § 2301(6)(A).

17 148. Lumber Liquidators' breach deprived Plaintiffs and the members of the  
18 proposed Class of the benefit of their bargain.

19 149. The amount in controversy of Plaintiffs' individual claim exceeds the  
20 value of \$25. In addition, the amount in controversy exceeds the value of \$50,000  
21 (exclusive of interest and costs) computed on the basis of all claims to be  
22 determined in this action.

23 150. Before filing this action, Plaintiffs notified Defendant of its breach of  
24 written warranties and of its violations of the Magnuson-Moss Warranty Act, and  
25 Defendant has failed to adequately cure those breaches. Additionally, Defendant  
26 was notified of its breaches, *inter alia*, through a putative class action filed in Los  
27 Angeles, California. Defendant has had adequate and reasonable opportunity to cure  
28 its breaches of or fulfill its warranty obligations, but has failed to do so.

1 151. Pursuant to the provisions of 15 U.S.C. § 2310(e), in the case of a class  
2 action (as is the case here), Plaintiffs will provide Defendant with further notice and  
3 reasonable opportunity to cure, once the representative capacity of the named  
4 Plaintiffs have been established in the application of Rule 23 of the Federal Rules of  
5 Civil Procedure.

6 152. As a direct and proximate result of Defendant's breaches of its written  
7 and implied warranties, Plaintiffs and the other members of the proposed Class  
8 sustained damages in amounts to be determined at trial.

9 **FOURTH CAUSE OF ACTION**

10 **Violations of California's Unfair Competition Law**

11 **Cal. Bus. & Prof. Code §17200, et seq.**

12 153. Plaintiffs individually and on behalf of all others similarly situated,  
13 adopt and incorporate by reference all foregoing allegations as though fully set forth  
14 herein.

15 154. The acts, omissions, and practices of Defendant as alleged herein  
16 constituted, and continue to constitute, unlawful and unfair business acts and  
17 practices within the meaning of Section 17200, *et seq.* of the California *Business &*  
18 *Professions Code*. Plaintiffs have standing to bring this action under *Business &*  
19 *Professions Code* § 17200, *et seq.* because they have suffered injury in fact and have  
20 lost money because of the Defendant's conduct.

21 155. Defendant has engaged in "unlawful" business acts and practices by its  
22 violation of the statutes and regulations, referenced above, including, but not limited  
23 to: California *Business & Professions Code* section 17200, *et seq.*; California  
24 *Business & Professions Code* section 17500, *et seq.*; California *Civil Code* section  
25 1750, *et seq.*; and California common law that prohibits fraudulent concealment and  
26 breaches of implied warranty.

27 156. Defendant has also engaged in "unfair" business acts or practices in that  
28 the harm caused by Defendant's misrepresentation about the durability of its

1 laminate flooring outweighs the utility of such conduct and the conduct offends  
2 public policy, is immoral, unscrupulous, unethical, deceitful and offensive, causes  
3 substantial injury to Plaintiffs and the Class, and provides Defendant with an unfair  
4 competitive advantage over those companies that abide by the law.

5 157. Defendant's actions described herein constitute fraud within the  
6 meaning of California *Business and Professions Code* section 17200, *et seq.* in that  
7 Defendant has failed to disclose that its Dream Home line of laminate flooring  
8 products is defective, because it does not have an AC rating of AC3, is not "very  
9 durable" and will prematurely fail long before the end of the 25 and 30 year  
10 warranty periods. Defendant's failure to disclose the true facts concerning the  
11 durability of its laminate flooring was likely to mislead Plaintiffs and the Class into  
12 believing that its Dream Home laminate flooring products had a higher abrasion  
13 rating than they actually did, were "very durable" and would last at least as long as  
14 the 25 and 30 year warranty periods. Plaintiffs' laminate flooring has failed, become  
15 scratched, marred, warped, stained and has failed after being put to its intended use  
16 for residential traffic.

17 158. As a result of the conduct described above, Defendant has been and  
18 will be unjustly enriched at the expense of Plaintiffs and the Class.

19 159. The aforementioned unlawful or unfair business acts or practices  
20 conducted by Defendant has been committed in the past and continues to this day.  
21 Defendant has failed to acknowledge the wrongful nature of its actions. Defendant  
22 has not corrected or publicly issued individual and comprehensive corrective notices  
23 to Plaintiffs and the Class or provided full restitution and disgorgement of all ill-  
24 gotten monies either acquired or retained by Defendant as a result thereof, thereby  
25 depriving Plaintiffs and the Class of laminate flooring that has the durability  
26 qualities advertised by Defendant.

27 160. Pursuant to the *Business & Professions Code* section 17203, Plaintiffs  
28 and the Class seek an order of this Court requiring Defendant to disgorge all ill-

1 gotten gains and awarding Plaintiffs and the Class full restitution of all monies  
2 wrongfully acquired by Defendant by means of such "unlawful" and "unfair"  
3 conduct, plus interest and attorneys' fees pursuant to, inter alia, California *Code of*  
4 *Civil Procedure* section 1021.5, so as to restore any and all monies to Plaintiffs and  
5 the Class and the general public, which were acquired and obtained by means of  
6 such "unlawful" and "unfair" conduct, and which ill-gotten gains are still retained by  
7 Defendant. Plaintiffs and the Class additionally request that such funds be  
8 impounded by the Court or that an asset freeze or constructive trust be imposed  
9 upon such monies by Defendant. Plaintiffs and the Class may be irreparably harmed  
10 and/or denied an effective and complete remedy if such an order is not granted.

11 **FIFTH CAUSE OF ACTION**

12 **Violations of the False Advertising Law**

13 **Cal. Bus. & Prof. Code § 17500**

14 161. Plaintiffs individually and on behalf of all others similarly situated,  
15 adopt and incorporate by reference all foregoing allegations as though fully set forth  
16 herein.

17 162. California *Business & Professions Code* section 17500 prohibits  
18 various deceptive practices in connection with the dissemination in any manner of  
19 representations that are likely to deceive members of the public to purchase products  
20 such as the laminate flooring.

21 163. Defendant caused advertisements for laminate flooring to be placed on  
22 its website and product packaging before the general public and knew or should  
23 have known its Dream Home laminate flooring did not conform to the  
24 advertisements' representations regarding the durability of the product.

25 164. As a result of the foregoing, Plaintiffs, and other Class Members, and  
26 consumers are entitled to injunctive and equitable relief and damages in an amount  
27 to be proven at trial.

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**SIXTH CAUSE OF ACTION**

**Violation of Consumer Legal Remedies Act**

**Cal. Civ. Code § 1750**

165. Plaintiffs individually and on behalf of all others similarly situated, adopt and incorporate by reference all foregoing allegations as though fully set forth herein.

166. This cause of action arises under the Consumers Legal Remedies Act (“CLRA”), California *Civil Code* § 1750, *et seq.* Plaintiffs are consumers as defined by California *Civil Code* section 1761(d). Defendant's laminate flooring constitutes "goods" as defined by California *Civil Code* section 1761(a). At all times relevant hereto, Defendant constituted a "person" as that term is defined in California *Civil Code* section 1761(a), and Plaintiffs' and Class Members' purchases of laminate flooring constituted "transactions," as that term is defined in California *Civil Code* section 1761(b).

167. Defendant violated and continues to violate the CLRA by engaging in the following deceptive practices specifically proscribed by California *Civil Code* section 1770(a), in transactions with Plaintiffs and Class Members that were intended to result or which resulted in the sale or lease of goods or services to consumers:

- a. In violation of California *Civil Code* section 1770(a)(5), Defendant's acts and practices constitute misrepresentations that the laminate flooring in question has characteristics, benefits or uses which it does not have;
- b. In violation of California *Civil Code* section § 1770(a)(7), Defendant has misrepresented that the laminate flooring in question is of a particular standard, quality and/or grade, when they are of another; and
- c. In violation of California *Civil Code* section 1770(a)(9),



1 Defendant advertised the laminate flooring in question with the  
2 intent not to sell them as advertised or represented.

3 168. Defendant has made uniform representations that its Dream Home line  
4 of laminate flooring has an "AC3" Abrasion Class rating, is "very durable", and has  
5 implied that the useful life of its products is at least as long as the 25 year or 30 year  
6 warranty periods. These representations, as set forth above, were false, deceptive,  
7 and/or misleading and in violation of the CLRA.

8 169. Pursuant to California *Civil Code* section 1782, Plaintiffs notified  
9 Defendant in writing on July 19, 2016, July 25, 2016, and July 26, 2016,  
10 respectively, of the particular violations of California *Civil Code* section 1770  
11 alleged herein, and have demanded that Defendant rectify the problems associated  
12 with the actions detailed above and give notice to all affected consumers of its intent  
13 to so act. Plaintiffs sent these notices to Defendant's principal place of business.

14 170. Defendant has not responded to Plaintiffs' notices above under the  
15 Consumer Legal Remedies Act. Plaintiffs seek actual damages and punitive  
16 damages for violation of the Act. In addition, pursuant to California *Civil Code*  
17 section 1780(a)(2), Plaintiffs will be entitled to, and therefore seek, a Court order  
18 enjoining the above-described wrongful acts and practices that violate California  
19 *Civil Code* section 1770.

20 171. Plaintiffs and the California Class will also be entitled to recover  
21 attorneys' fees, costs, expenses and disbursements pursuant to California *Civil Code*  
22 sections 1780 and 1781.

23 **PRAYER FOR RELIEF**

24 WHEREFORE, Plaintiffs, on behalf of themselves and all other individuals  
25 similarly situated, requests the following relief:

26 A. An order certifying this action as a class action under F.R.C.P. 23,  
27 defining the Class as requested herein, appointing the undersigned as  
28 Class counsel, and finding that Plaintiffs are proper representatives of

1 the proposed Class;

2 B. Injunctive relief requiring Defendant to inform Plaintiffs and members  
3 of the proposed Class that:

4 • Lumber Liquidators has not effectively disclaimed the implied  
5 warranty of merchantability, and that the Laminates continue to  
6 be subject to such implied warranties;

7 • the warranty limitations contained in Defendant’s “limited  
8 warranties” are unenforceable;

9 • Plaintiffs and proposed Class members are entitled to restitution,  
10 including reimbursement for any installation, removal, and  
11 replacement costs; and that

12 • Plaintiffs and proposed Class members may be entitled to other  
13 relief as awarded by this Court;

14 C. Restitution of all monies Defendant received from Plaintiffs and the  
15 proposed Class;

16 D. Damages to be determined at trial including actual, compensatory, and  
17 consequential damages incurred by Plaintiffs and proposed Class  
18 Members;

19 E. Punitive damages where allowed;

20 F. An award of reasonable attorney's fees and costs; and

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G. That the Court award such other and further relief as this Court may deem appropriate.

Dated this 1<sup>st</sup> day of August, 2016.

ROBERTSON & ASSOCIATES, LLP

*/ s / Alexander Robertson, IV*

Bv:

Alexander Robertson, IV (CA SBN 127042)  
Mark J. Uyeno (CA SBN 189063)

WHITFIELD BRYSON & MASON, LLP  
Daniel K. Bryson (*Pro Hac Vice* Pending)  
Patrick Wallace (*Pro Hac Vice* Pending)

AHDOOT & WOLFSON, PC  
Robert Ahdoot (CA SBN 172098)

LAW OFFICE OF ANDREW J. MCGUINNESS  
Andrew J. McGuinness, Esq. (*Pro Hac Vice* Pending)

*Attorneys for Plaintiffs and The Proposed Class*

JS 44 (Rev. 12/12)

**CIVIL COVER SHEET**

**'16CV1931 MMAKSC**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**  
 PATRICIA COBURN, JIM MOYLEN, and DIANA SIROIS, individuals, on behalf of themselves and all others similarly situated,

(b) County of Residence of First Listed Plaintiff San Diego  
 (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)  
 ROBERTSON & ASSOCIATES, LLP - Alexander Robertson, IV  
 32121 Lindero Canyon Road, Ste. 200, Westlake Village, CA 91361  
 Telephone No. (818) 851-3850

**DEFENDANTS**  
 LUMBER LIQUIDATORS, INC., a Delaware corporation

County of Residence of First Listed Defendant James City, Virginia  
 (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)  
 MORRISON & FOERSTER LLP - William Stern  
 425 Market Street, San Francisco CA 94105  
 Telephone No. (415) 268-7000

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

1 U.S. Government Plaintiff

2 U.S. Government Defendant

3 Federal Question (U.S. Government Not a Party)

4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF		PTF	DEF
Citizen of This State	<input checked="" type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input checked="" type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS			
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input checked="" type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

**V. ORIGIN** (Place an "X" in One Box Only)

1 Original Proceeding     2 Removed from State Court     3 Remanded from Appellate Court     4 Reinstated or Reopened     5 Transferred from Another District (specify)     6 Multidistrict Litigation

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
15 U.S.C. §§ 2301, et seq.; Cal. BP Code §17200, et seq.; Cal. BP Code § 17500; Cal. Civ. Code § 1750

Brief description of cause:  
Breach Implied Warranty; Fraudulent Concealment; Violation The Magnuson-Moss Warranty Act; etc.

**VII. REQUESTED IN COMPLAINT:**     CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.    DEMAND \$ \_\_\_\_\_    CHECK YES only if demanded in complaint: JURY DEMAND:  Yes     No

**VIII. RELATED CASE(S) IF ANY** (See instructions):    JUDGE Hon. George Wu    DOCKET NUMBER 2:15-cv-03795-GW(JPRx)

DATE 08/01/2016    SIGNATURE OF ATTORNEY OF RECORD / s / Alexander Robertson, IV

FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_

# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Lumber Liquidators Floored with Another 'Dream Home' Suit](#)

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