

**CONFORMED COPY**

OF ORIGINAL FILED

Los Angeles Superior Court

SEP 18 2008

John A. Clarke, Executive Officer/Clerk

By \_\_\_\_\_ DEPUTY

1 GRAHAM & MARTIN, LLP  
2 Anthony G. Graham (State Bar No.148862)  
3 Michael J. Martin (State Bar No.171757)  
4 950 South Coast Drive, Suite 220  
5 Costa Mesa, California 92626  
6 (714) 850-9390

Attorneys For Plaintiff  
5 CONSUMER DEFENSE GROUP CASE MANAGEMENT CONFERENCE  
ACTION SET FOR 8:30 a.m.

FEB 17 2009

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

10 CONSUMER DEFENSE GROUP  
11 ACTION,

12 Plaintiff,

13 vs.

14 GLEIBERMAN PROPERTIES, DBA MG  
15 PROPERTIES; THE MORGAN GROUP;  
MILAN PROPERTIES AND DOES 1-100

16 Defendants.

CASE NO. NC051840

VERIFIED COMPLAINT FOR VIOLATION  
OF CALIFORNIA HEALTH & SAFETY  
CODE SECTION 25249.6

18 As and for its causes of action against defendants GLEIBERMAN PROPERTIES, DBA  
19 MG PROPERTIES; THE MORGAN GROUP; MILAN PROPERTIES AND DOES 1-100,  
20 plaintiff CONSUMER DEFENSE GROUP ACTION alleges as follows:

21 ALLEGATIONS INCORPORATED INTO EACH CAUSE OF ACTION

22 A. PARTIES

23 1. Plaintiff CONSUMER DEFENSE GROUP is and has been at all relevant times  
24 a California corporation in good standing, duly organized and existing under and by virtue of  
25 the laws of the State of California, and brings this action in the public interest as defined under  
26 Health & Safety Code § 25249.7 (d).

27 2. Defendants GLEIBERMAN PROPERTIES, dba MG PROPERTIES; THE  
28

1 MORGAN GROUP; MILAN PROPERTIES and DOES 1-100 are and at all times mentioned  
2 herein have been qualified to do business in the State of California.

3 3. Plaintiff is ignorant of the true names and capacities of defendants sued as  
4 DOES 1-100, inclusive, and therefore sues these defendants by such fictitious names. The  
5 fictitious defendants named in this Complaint are sued pursuant to the provisions of C.C.P. §  
6 474. Plaintiff is informed and believes, and upon that ground, alleges that each fictitious  
7 defendant is in some way responsible for, participated in, or contributed to the matters and  
8 things of which Plaintiff complains herein, and in some fashion, has legal responsibility  
9 therefor. When the exact nature and identity of such fictitious defendants' responsibility for,  
10 participation in, and contribution to the matters and things alleged herein are ascertained by  
11 Plaintiff, Plaintiff will seek to amend this Complaint and all proceedings herein to set forth the  
12 same.

13 4. At all times mentioned each of the defendants herein was a person within the  
14 meaning of Business & Professions Code § 17201 and a person doing business within the  
15 meaning of Health & Safety Code § 25249.11 (a). Plaintiff is informed and believes and  
16 thereon alleges that at all times mentioned herein, each defendant has had 10 or more  
17 employees.

18 5. The Court has jurisdiction over this action pursuant to California Constitution  
19 Article VI, Section 10, which grants the Superior Court original jurisdiction in all causes except  
20 those given by statute to other trial courts. The statutes under which this action is brought do  
21 not specify any other basis of jurisdiction.

22 **CAUSE OF ACTION**  
23 **(Violation of California Health & Safety Code)**

24 6. Plaintiff Consumer Defense Group Action repeats and incorporates by reference  
25 paragraphs 1 through 5 of this Complaint as though fully set forth herein.

26 7. GLEIBERMAN PROPERTIES, dba MG PROPERTIES; THE MORGAN  
27 GROUP; MILAN PROPERTIES and DOES 1-100 knowingly and intentionally exposed  
28

1 consumers, their customers, visitors, employees and/or the general public to chemicals known  
2 to the State of California to cause cancer and reproductive toxicity, as set forth in Health &  
3 Safety Code §§ 25249.5, *et seq.* and 22 California Code of Regulations §§ 12000 through  
4 14000 without first giving clear and reasonable warnings of that fact to the exposed persons  
5 prior to exposure. Employees include but are not limited to administrative personnel, security  
6 personnel, maintenance workers and service personnel.

7 8. Defendant GLEIBERMAN PROPERTIES, dba MG PROPERTIES knowingly  
8 and intentionally exposed consumers, its customers and/or employees to chemicals known to  
9 the State of California to cause cancer and reproductive toxicity, as set forth in Health & Safety  
10 Code Sections 25249.5, *et seq.* and 22 California Code of Regulations Sections 12000 through  
11 14000 at the locations listed in Exhibit A, which is fully incorporated as if set forth herein.

12 9. Defendant THE MORGAN GROUP knowingly and intentionally exposed  
13 consumers, its customers and/or employees to chemicals known to the State of California to  
14 cause cancer and reproductive toxicity, as set forth in Health & Safety Code Sections 25249.5,  
15 *et seq.* and 22 California Code of Regulations Sections 12000 through 14000 at the locations  
16 listed in Exhibit B, which is fully incorporated as if set forth herein.

17 10. Defendant MILAN PROPERTIES knowingly and intentionally exposed  
18 consumers, its customers and/or employees to chemicals known to the State of California to  
19 cause cancer and reproductive toxicity, as set forth in Health & Safety Code Sections 25249.5,  
20 *et seq.* and 22 California Code of Regulations Sections 12000 through 14000 at the locations  
21 listed in Exhibit C, which is fully incorporated as if set forth herein.

22 11. At all times relevant to this action GLEIBERMAN PROPERTIES, dba MG  
23 PROPERTIES; THE MORGAN GROUP; MILAN PROPERTIES and DOES 1-100 knew that  
24 their customers, consumers, visitors, employees and/or the general public were being exposed,  
25 through inhalation and dermal contact, to chemicals known to the State of California to cause  
26 cancer and reproductive toxicity, as set forth in Health & Safety Code §§ 25249.5, *et seq.* and  
27 22 California Code of Regulations §§ 12000 through 14000. Therefore, Defendants  
28

1 GLEIBERMAN PROPERTIES, dba MG PROPERTIES; THE MORGAN GROUP; MILAN  
2 PROPERTIES and DOES 1-100 knowingly and intentionally exposed their customers,  
3 consumer and/or employees to chemicals known to the state of California to cause cancer  
4 and/or reproductive toxicity, as set forth in Health & Safety Code Sections 25249.5, *et seq.* and  
5 22 California Code of Regulations Sections 12000 through 14000 without providing the  
6 warnings required by California Health & Safety Code Section 25249.6.

7 12. The route of exposure for the said chemicals has been inhalation and dermal  
8 contact.

9 13. Such exposure took place in and around the locations listed in Exhibit A for  
10 Defendant GLEIBERMAN PROPERTIES, dba MG PROPERTIES.

11 14. Such exposure took place in and around the locations listed in Exhibit B for  
12 Defendant THE MORGAN GROUP.

13 15. Such exposure took place in and around the locations listed in Exhibit C for  
14 Defendant MILAN PROPERTIES.

15 16. More than sixty days prior to filing this action Plaintiff mailed to the President  
16 and Chief Executive Officer for each defendant a Sixty (60) Day Notice of Intent to Sue  
17 (hereinafter, "the Notice") for violations of Proposition 65, the Safe Drinking Water and Toxic  
18 Enforcement Act (commencing with Health & Safety Code Section 25249.5) by knowingly and  
19 intentionally exposing their customers, employees and the public to tobacco smoke and other  
20 chemicals designated by the State of California to cause cancer and reproductive toxicity  
21 without first giving clear and reasonable warning of that fact to the exposed persons as required  
22 by Health & Safety Code Section 24249.6. The Notice specifically identified the chemicals to  
23 which each defendant had exposed its customers, employees and the public. The Notice  
24 identified the locations where the exposures had occurred, the time period wherein such  
25 exposure had occurred, and also identified the route of exposure for the chemicals as inhalation,  
26 ingestion and dermal contact. Included with the Notice was a copy of "The Safe Drinking  
27 Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary."  
28

1 17. The Notices referred to in paragraph 16 fully complied with the requirements of  
2 the Safe Drinking Water and Toxic Enforcement Act of 1986.

3 18 Copies of the Notices referred to in paragraph 16 were mailed to the California  
4 Attorney General, the County District Attorneys and City Attorneys for each city containing a  
5 population of at least 750,000 people (hereinafter referred to collectively as "the Prosecutors")  
6 for the locations where each defendant had violated Health & Safety Code Sections 25249.5, *et*  
7 *seq.* and 22 California Code of regulations Sections 12000 through 14000.

8 19. No response or communication of any kind was ever received from any of the  
9 Prosecutors. None of the Prosecutors is prosecuting an action against the defendant herein for  
10 the violations set forth above.

11 20 Individuals exposed to the listed chemicals suffered and continue to suffer  
12 irreparable harm due to their exposure to said chemicals without prior clear and reasonable  
13 warning.

14 21 This action for injunctive relief and penalties for violation of Health & Safety  
15 Code Sections 25249.5, *et seq.* is specifically authorised by Health & Safety Code Section  
16 25249.7.

17 **PRAYER FOR RELIEF**

18 WHEREFORE, plaintiff requests against each defendant:

19 **ON THE FIRST CAUSE OF ACTION**

- 20 1. A permanent injunction pursuant to California Health & Safety Code Section 25249.7  
21 (a), and the equitable powers of the court;
- 22 2. Penalties pursuant to California Health & Safety Code Section 25249.7 (b) in the  
23 amount of \$2,500.00 per day per violation at each of the locations owned and operated  
24 by Defendant sin the State of California.
- 25 3. Cost of suit;
- 26 4. Reasonable attorneys fees and costs; and,

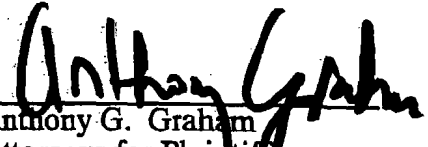
27  
28

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

5. Any further relief that the court may deem just and equitable.

Dated : September 15, 2008

GRAHAM & MARTIN, LLP

  
Anthony G. Graham  
Attorneys for Plaintiff  
Consumer Defense Group Action

# EXHIBIT A

---

## EXHIBIT A

55th Street Apartments	4521 55th Street	San Diego	CA 92115
60th Street Apartments	4560 60th Street	San Diego	CA 92115
The Acres	1575 Tanglewood Lane	Escondido	CA 92029
Adelaide Apartments	5505 Adelaide Avenue	San Diego	CA 92115
Adelaide Apartments	5550 Adelaide Avenue	San Diego	CA 92115
Creekside Apartment Homes	495 E. 3rd Street	San Bernardino	CA 92410
Eagle Rock Villas	1337 North Broadway	Escondido	CA 92026
La Mesa Palms	4300 Echo Court	La Mesa	CA 91941
Malibu Terrace	725 North Fig Street	Escondido	CA 92025
Mission Bell Apartments	624 E. Mission Avenue	Escondido	CA 92025
Mission Village	776 E. Mission Drive	Escondido	CA 92025
Portofino on the Park	850 North Benson Avenue	Upland	CA 91786
Village Grove Apartments	660 N. Quince Street	Escondido	CA 92025
Windsong Villas	1202-1214 North Broadway	Escondido	CA 92026
Woodlands Townhomes	1433 N. Broadway	Escondido	CA 92026
Adelaide Apartments	4534 56th Street	San Diego	CA 92115
Adelaide Apartments	4845 70th Street	San Diego	CA 92115
Tanglewood Terrace Apartments	1564 Tanglewood Lane	Escondido	CA 92029



# EXHIBIT B

---

**EXHIBIT B**

Missions at Chino Hills  
3100 Chino Hills Parkway  
Chino Hills, CA 91709

Missions at Sunbow  
825 E. Palomar Street  
Chula Vista, CA 91911

Amerige Pointe  
1001 Starbuck Street  
Fullerton, CA 92831

City Pointe  
130 E. Chapman Ave.  
Fullerton, CA 92832

The Missions at Rancho Del Oro  
4795 Frazee Road  
Oceanside, CA 92057

The Pointe at Warner Center  
6150 Canoga Ave.  
Woodland Hills, CA 91367

# EXHIBIT C

---

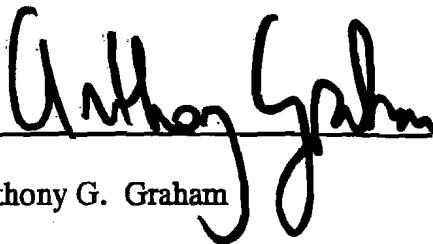
**VERIFICATION**

Consumer Defense Group Action v. Gleiberman Properties, Dba MG Properties; The Morgan Group; Milan Properties and DOES 1 through 100. Superior Court for the County of Los Angeles, State of California.

I, the undersigned, certify and declare that I have read the foregoing Complaint in the above referenced matter and know its contents. I am the attorney for Plaintiff Consumer Defense Group Action. The President of Plaintiff Consumer Defense Group Action is absent from the county where I have my office and thus unable to verify the document described above. For that reason, I am making this verification for and on behalf of him. I am informed and believe and on that ground allege that the matters stated in said document are true.

Executed on September 15, 2008, at Costa Mesa, California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

  
\_\_\_\_\_  
Anthony G. Graham