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Los Angeles Superior Court

DEC 22 2008

John A. Clarke, CLERK  
Deputy

By \_\_\_\_\_

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6 (714) 850-9390

7 Attorneys For Plaintiff  
8 CONSUMER DEFENSE GROUP  
9 ACTION

CASE MANAGEMENT CONFERENCE  
SET FOR 8:30 a.m.

DEC 19 2008

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
11 FOR THE COUNTY OF LOS ANGELES

12 CONSUMER DEFENSE GROUP  
13 ACTION,  
14 Plaintiff,  
15 vs.  
16 LEGACY PARTNERS AND DOES 1-100  
17 Defendants.

CASE NO. NC051589

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

18 As and for its causes of action against defendants LEGACY PARTNERS and DOES 1-  
19 100, plaintiff CONSUMER DEFENSE GROUP ACTION alleges as follows:

ALLEGATIONS INCORPORATED INTO EACH CAUSE OF ACTION

20 A. PARTIES

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

25 2. Defendant LEGACY PARTNERS is and at all times mentioned herein has been  
26 qualified to do business in the State of California.

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

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

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

20                                 **CAUSE OF ACTION**

21                                 **(Violation of California Health & Safety Code)**

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

24           7.     **LEGACY PARTNERS** and DOES 1-10 knowingly and intentionally exposed  
25 consumers, its customers, visitors, employees and/or the general public to chemicals known to  
26 the State of California to cause cancer and reproductive toxicity, as set forth in Health & Safety  
27 Code §§ 25249.5, *et seq.* and 22 California Code of Regulations §§ 12000 through 14000  
28

1 without first giving clear and reasonable warnings of that fact to the exposed persons prior to  
2 exposure. Employees include but are not limited to administrative personnel, security  
3 personnel, maintenance workers and service personnel.

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

9 9. At all times relevant to this action LEGACY PARTNERS knew that its  
10 customers, consumers, visitors, employees and/or the general public were being exposed,  
11 through inhalation and dermal contact, to chemicals known to the State of California to cause  
12 cancer and reproductive toxicity, as set forth in Health & Safety Code §§ 25249.5, *et seq.* and  
13 22 California Code of Regulations §§ 12000 through 14000. Therefore, Defendant LEGACY  
14 PARTNERS and DOES 1-10 knowingly and intentionally exposed their customers, consumer  
15 and/or employees to chemicals known to the state of California to cause cancer and/or  
16 reproductive toxicity.

17 10. LEGACY PARTNERS knowingly and intentionally exposed their customers,  
18 consumer and/or employees to chemicals known to the State of California to cause cancer and  
19 reproductive toxicity, as set forth in Health & Safety Code Sections 25249.5, *et seq.* and 22  
20 California Code of Regulations Sections 12000 through 14000 without providing the warnings  
21 required by California Health & Safety Code Section 25249.6.

22 11. The route of exposure for the said chemicals has been inhalation and dermal  
23 contact.

24 12. Such exposure took place in and around the locations listed in Exhibit A.

25 13. More than sixty days prior to filing this action Plaintiff mailed to the President  
26 and Chief Executive Officer for defendant a Sixty (60) Day Notice of Intent to Sue (hereinafter,  
27 "the Notice") for violations of Proposition 65, the Safe Drinking Water and Toxic Enforcement  
28

1 Act (commencing with Health & Safety Code Section 25249.5) by knowingly and intentionally  
2 exposing its customers, employees and the public to tobacco smoke and other chemicals as  
3 listed in paragraph 8 above and designated by the State of California to cause cancer and  
4 reproductive toxicity without first giving clear and reasonable warning of that fact to the  
5 exposed persons as required by Health & Safety Code Section 24249.6. The Notice  
6 specifically identified the chemicals to which each defendant had exposed its customers,  
7 employees and the public. The Notice identified the locations where the exposures had  
8 occurred, the time period wherein such exposure had occurred, and also identified the route of  
9 exposure for the chemicals as inhalation, ingestion and dermal contact. Included with the  
10 Notice was a copy of "The Safe Drinking Water and Toxic Enforcement Act of 1986  
11 (Proposition 65): A Summary."

12 14. The Notice referred to in paragraph 13 fully complied with the requirements of  
13 the Safe Drinking Water and Toxic Enforcement Act of 1986.

14 15. Copies of the Notices referred to in paragraph 13 were mailed to the California  
15 Attorney General, the County District Attorneys and City Attorneys for each city containing a  
16 population of at least 750,000 people (hereinafter referred to collectively as "the Prosecutors")  
17 for the locations where each defendant had violated Health & Safety Code Sections 25249.5, *et*  
18 *seq.* and 22 California Code of regulations Sections 12000 through 14000.

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

22 17. Individuals exposed to the listed chemicals suffered and continue to suffer  
23 irreparable harm due to their exposure to said chemicals without prior clear and reasonable  
24 warning.

25 18. This action for injunctive relief and penalties for violation of Health & Safety  
26 Code Sections 25249.5, *et seq.* is specifically authorised by Health & Safety Code Section  
27 25249.7.

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**PRAYER FOR RELIEF**

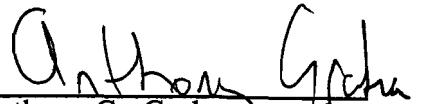
WHEREFORE, plaintiff requests against defendant:

**ON THE FIRST CAUSE OF ACTION**

1. A permanent injunction pursuant to California Health & Safety Code Section 25249.7 (a), and the equitable powers of the court;
2. Penalties pursuant to California Health & Safety Code Section 25249.7 (b) in the amount of \$2,500.00 per day per violation at each of the locations owned and operated by Defendant sin the State of California.
3. Cost of suit;
4. Reasonable attorneys fees and costs; and,
5. Any further relief that the court may deem just and equitable.

Dated : July 20, 2008

GRAHAM & MARTIN, LLP

  
Anthony G. Graham  
Attorneys for Plaintiff  
Consumer Defense Group Action

# EXHIBIT A

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## EXHIBIT A

## LEGACY PARTNERS

## Legacy Partners Residential - California

Almaden Lake Village	1045 Coleman Road	San Jose, CA 95123
The Cascades	874 E. El Camino Real	Sunnyvale, CA 94087
Copper Ridge	145 Copper Ridge Road	San Ramon, CA 94583
The Hamlet	1319 59 <sup>th</sup> Avenue	San Leandro, CA 94578
Ivy Hill	1700 Botelho Drive	Walnut Creek, CA 94596
The Landing @ Jack London Square	101 Embarcadero West	Oakland, CA 94607
Larkspur Courts	100 Old Quarry Road	Larkspur, CA 94939
Legacy at Museum Park	465 W. San Carlos Street	San Jose, CA 95110
Legacy Fountain Plaza	405 North First Street	San Jose, CA 95112
Legacy Park Central	1555 Galindo Street	Concord, CA 94520
Mission Sierra	34864 Mission Blvd.,	Union City, CA 94587
Montrachet	3200 Soscol Avenue	Napa, CA 94558
Plaza Club	195 Harden Pkwy	Salinas, CA 93906
The Seasons	125 Cedar Pointe Loop	San Ramon, CA 94583
St. Francis Place	One St. Francis Place	San Francisco, CA 94107
Terra Linda Manor	101 Nova Albion Way	San Rafael, CA 94903
Academy Village	5225 Blakeslee Avenue	No. Hollywood, CA 91601
Alder Court	225 S. Newhope Street	Santa Ana, CA 92704
Bay Club & Marina	14015 W. Tahiti Way	Marina del Rey, CA 90292
Burbank Senior Artist Colony	240 E. Verdugo Avenue	Burbank, CA 91502
Caribbean Cove	2175 S. Mallul Drive	Anaheim, CA 92802
The Casitas	1900 S. Campus Drive, #39	Ontario, CA 91761
Club Royale	380 Linden Avenue	Rialto, CA 92376
Foothill Views	208 S. Azusa Avenue	Azusa, CA 91702
Garden Estates	5618 Tilton Avenue	Riverside, CA 92509
Kingsley Plaza	444 S. Kingsley Drive	Los Angeles, CA 90020
La Serena	18567 E. Colima	Rowland Heights, CA 91748

Kenwood Mews	230 N. Kenwood	Burbank, CA 91505
Kingsley Plaza	444 S. Kingsley Drive	Los Angeles, CA 90020
La Serena	18567 E. Colima	Rowland Heights, CA 91748
Legacy at Westwood (The)	10833 Wilshire Blvd.	Los Angeles, CA 90024
Marina	5425-5449 E. Sorrento Dr.	Long Beach, CA 90853
Meadowridge	23645 Meadowridge Dr.	Santa Clarita, CA 91321
Montierra	1701 East D Street	Ontario, CA 91764
Mountain Summit	1352 W. 5 <sup>th</sup> Street	Ontario, CA 91762
Neptune Marina Townhomes	14126 Marquesas	Marina Del Rey, CA 90202
Neptune Marina Boat Slips	14126 Marquesas	Marina Del Rey, CA 90202
Newhope Pines	517 S. Newhope Street	Santa Ana, CA 92704
Orangewood Gardens	235 W. Orangewood	Anaheim, CA 92803
Pacific Electric Lofts	610 S. Main Street	Los Angeles, CA 90017
Palmilla Villas	1250 S. Euclid Avenue	Anaheim, CA 92802
Palmwood Gardens Apts	11932 Bailey Ave. Apt. A	Garden Grove, CA 92845
Park (The)	12350 Del Amo Blvd.	Lakewood, CA 90715
Park Regency Club	10000 E. Imperial Hwy.	Downey, CA 90242
Piedmont Senior Apts. (The)	6750 Witselt Avenue	North Hollywood, CA 91606
Reche Canyon	1333 Reche Canyon	Colton CA, 92324
Reche Ridge	2270 Cahuilla Street	Colton CA, 92324
San Tropez	2800 W. 17 <sup>th</sup> Street	Santa Ana, CA 92706
Santa Rosa Villas	82-165 Dr. Carreon Blvd.	Indio, CA 92201
Sevilla	73-373 Country Club Drive	Palm Desert, CA 92260
Southwood Gardens	5601 Paramount Blvd.	Long Beach, CA 90805
Sunset & Vine	1555 N. Vine Street	Hollywood, CA 90028
Sunterra	3851 Sherbourne Drive	Oceanside, CA 92056
Tierra del Rey	4250 Glencoe Ave.	Marina Del Rey, CA 90292
Westcreek	973 Westcreek Lane	Westlake Village, CA 91362



Cedar Village	820 West 4 <sup>th</sup> Avenue	Chico, CA 95926
Ravenswood	401 West Pine Avenue	Lompoc, CA 93436
Del Rey Terrace	4060 Glencoe Avenue	Marina Del Rey, CA 90292
Stadium Lofts	1801 East Katella	Anaheim, CA 92806

**VERIFICATION**

**Consumer Defense Group Action v. Legacy Partners and DOES 1-100**

Superior Court for the County of Los Angeles.

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 President of Consumer Defense Group Action and make this verification on behalf of Plaintiff Consumer Defense Group Action as to the Complaint filed against Legacy Partners and DOES 1-100. I have personal knowledge of the matters stated herein, to the best of my knowledge that the matters stated in said document are true, and I could and would competently testify thereto if called as a witness.

Executed on July 18, 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.

  
\_\_\_\_\_  
Brian Fagan