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**ENDORSED  
FILED**  
San Francisco County Superior Court

JAN 26 2007

**GORDUN PANG-LI, Clerk**  
BY: PARAMNATT  
Deputy Clerk

CASE MANAGEMENT CONFERENCE SET

Attorneys for Plaintiff  
RUSSELL BRIMER

JUN 29 2007 - 9<sup>00</sup> AM

DEPARTMENT 212

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE CITY AND COUNTY OF SAN FRANCISCO  
UNLIMITED CIVIL JURISDICTION

RUSSELL BRIMER,

Plaintiff,

v.

WORLD KITCHEN, LLC; CORNINGWARE  
CORELLE REVERE FACTORY STORES;  
and DOES 1 through 150, inclusive,

Defendants.

Case No. CGC - 07 - 459939

**COMPLAINT FOR CIVIL PENALTIES  
AND INJUNCTIVE RELIEF**

*(Cal. Health & Safety Code §25249.6 et seq.)*

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1 NATURE OF THE ACTION

2 1. This Complaint is a representative action brought by plaintiff RUSSELL BRIMER,  
3 in the public interest of the citizens of the State of California, to enforce the People's right to be  
4 informed of the presence of lead (a toxic chemical) found in certain ceramic containers  
5 manufactured, distributed and/or offered for sale by defendants in California.

6 2. By this Complaint, plaintiff seeks to remedy defendants' continuing failures to warn  
7 California citizens about their exposure to lead present in or on ceramic containers that defendants  
8 manufacture and/or offer for sale to consumers throughout the State of California.

9 3. High levels of lead are commonly found in the artwork or designs on the exterior of  
10 the ceramic containers that defendants manufacture and/or off for sale to consumers throughout the  
11 State of California.

12 4 Under California's Safe Drinking Water and Toxic Enforcement Act of 1986,  
13 California Health & Safety Code §25249.6 *et seq.* (hereafter "Proposition 65"), "No person in the  
14 course of doing business shall knowingly and intentionally expose any individual to a chemical  
15 known to the state to cause cancer or reproductive toxicity without first giving clear and reasonable  
16 warning to such individual...." (*Cal. Health & Safety Code* §25249.6.)

17 5. On February 27, 1987, California identified and listed lead as a chemical known to  
18 cause birth defects and other reproductive harm. Lead became subject to the warning requirement  
19 one year later and was therefore subject to the "clear and reasonable warning" requirements of  
20 Proposition 65, beginning on February 27, 1988. (*22 CCR §12000(c)*; *Cal. Health & Safety Code*  
21 §25249.8.) Lead shall hereafter be referred to as the "LISTED CHEMICAL."

22 6. Defendants manufacture, distribute and/or offer for sale cups and other ceramic  
23 containers intended for the consumption of food or beverages with colored artwork or designs  
24 (containing lead) on the exterior including, but not limited to, *9oz Cup Spiceberry (#51728 500V)*,  
25 which contain excessive levels of the LISTED CHEMICAL. All such ceramic containers  
26 containing the LISTED CHEMICAL shall hereafter be referred to as the "PRODUCTS."

27 7. Defendants' failure to warn consumers about their exposure to the LISTED  
28 CHEMICAL in conjunction with defendants' sale of the PRODUCTS is a violation of Proposition

1 65 and subjects defendants to enjoinder of such conduct as well as civil penalties for each such  
2 violation.

3 8. For defendants' violations of Proposition 65, plaintiff seeks preliminary injunctive  
4 and permanent injunctive relief to compel defendants to provide purchasers or users of the  
5 PRODUCTS with the required warning regarding the health hazards of the LISTED CHEMICAL.  
6 (*Cal. Health & Safety Code §25249.7(a).*)

7 9. Plaintiff also seeks civil penalties against defendants for their violations of  
8 Proposition 65, as provided for by California Health & Safety Code §25249.7(b).

9 **PARTIES**

10 10. Plaintiff RUSSELL BRIMER is a citizen of the State of California who is dedicated  
11 to protecting the health of California citizens through the elimination or reduction of toxic  
12 exposures from consumer products, and brings this action in the public interest pursuant to  
13 California Health & Safety Code §25249.7.

14 11. Defendant WORLD KITCHEN, LLC. ("WORLD") is a person doing business  
15 within the meaning of California Health & Safety Code §25249.11.

16 12. WORLD manufactures, distributes and/or offers the PRODUCTS for sale or use in  
17 the State of California or implies by its conduct that it manufactures, distributes and/or offers the  
18 PRODUCTS for sale or use in the State of California.

19 13. Defendant CORELLE REVERE FACTORY STORES ("CORELLE") is a person  
20 doing business within the meaning of California Health & Safety Code §25249.11.

21 14. CORELLE manufactures, distributes and/or offers the PRODUCTS for sale or use  
22 in the State of California or implies by its conduct that it manufactures, distributes and/or offers the  
23 PRODUCTS for sale or use in the State of California.

24 15. Defendants DOES 1-50 (hereafter "MANUFACTURER DEFENDANTS") are each  
25 persons doing business within the meaning of California Health & Safety Code §25249.11.

26 16. MANUFACTURER DEFENDANTS engage in the process of research, testing,  
27 designing, assembling, fabricating and/or manufacturing, or imply by their conduct that they  
28 engage in the process of research, testing, designing, assembling, fabricating and/or manufacturing,

1 one or more of the PRODUCTS for sale or use in the State of California.

2 17. Defendants DOES 51-100 (hereafter "DISTRIBUTOR DEFENDANTS") are each  
3 persons doing business within the meaning of California Health & Safety Code §25249.11.

4 18. DISTRIBUTOR DEFENDANTS distribute, exchange, transfer, process and/or  
5 transport one or more of the PRODUCTS to individuals, businesses or retailers for sale or use in  
6 the State of California.

7 19. Defendants DOES 101-150 (hereafter "RETAIL DEFENDANTS") are each persons  
8 doing business within the meaning of California Health & Safety Code §25249.11.

9 20. RETAIL DEFENDANTS offer the PRODUCTS for sale to individuals in the State  
10 of California.

11 21. At this time, the true names of Defendants DOES 1 through 150, inclusive, are  
12 unknown to plaintiff, who therefore sues said defendants by their fictitious name pursuant to Code  
13 of Civil Procedure §474. Plaintiff is informed and believes, and on that basis alleges, that each of  
14 the fictitiously named defendants is responsible for the acts and occurrences herein alleged. When  
15 ascertained, their true names shall be reflected in an amended complaint.

16 22. WORLD, CORELLE, MANUFACTURER DEFENDANTS, DISTRIBUTOR  
17 DEFENDANTS, and RETAIL DEFENDANTS shall, where appropriate, collectively be referred to  
18 hereafter as "DEFENDANTS".

19 **VENUE AND JURISDICTION**

20 23. Venue is proper in the San Francisco Superior Court, pursuant to Code of Civil  
21 Procedure §§394, 395, 395.5 because this Court is a court of competent jurisdiction, because one  
22 or more instances of wrongful conduct occurred, and continues to occur, in the City and County of  
23 San Francisco and/or because DEFENDANTS conducted, and continue to conduct, business in this  
24 County with respect to the PRODUCTS.

25 24. The California Superior Court has jurisdiction over this action pursuant to  
26 California Constitution Article VI, §10, which grants the Superior Court "original jurisdiction in all  
27 causes except those given by statute to other trial courts." The statute under which this action is  
28 brought does not specify any other basis of subject matter jurisdiction.



1 believes that such violations will continue to occur into the future.

2 31. After receipt of the claims asserted in the sixty-day notice of violation, the  
3 appropriate public enforcement agencies have failed to commence and diligently prosecute a cause  
4 of action against WORLD and CORELLE under Proposition 65.

5 32. The PRODUCTS manufactured, distributed, and/or offered for sale or use in  
6 California by DEFENDANTS contained the LISTED CHEMICAL above the allowable state  
7 limits.

8 33. DEFENDANTS knew or should have known that the PRODUCTS manufactured,  
9 distributed, and/or offered for sale or use by DEFENDANTS in California contained the LISTED  
10 CHEMICAL.

11 34. The LISTED CHEMICAL was present in or on the PRODUCTS in such a way as to  
12 expose individuals to the LISTED CHEMICAL through dermal contact and ingestion during the  
13 reasonably foreseeable use of the PRODUCTS.

14 35. The normal and reasonably foreseeable use of the PRODUCTS has caused and  
15 continues to cause consumer exposures to the LISTED CHEMICAL, as such exposure is defined  
16 by 22 CCR §12601(b).

17 36. DEFENDANTS had knowledge that the normal and reasonably foreseeable use of  
18 the PRODUCTS would expose individuals to the LISTED CHEMICAL through dermal contact  
19 and ingestion.

20 37. DEFENDANTS, and each of them, intended that such exposures to the LISTED  
21 CHEMICAL from the reasonably foreseeable use of the PRODUCTS would occur by their  
22 deliberate, non-accidental participation in the manufacture, distribution and/or offer for sale or use  
23 of PRODUCTS to individuals in the State of California.

24 38. DEFENDANTS failed to provide a "clear and reasonable warning" to those  
25 consumers or other individuals in the State of California who were or who could become exposed  
26 to the LISTED CHEMICAL through dermal contact or ingestion during the reasonably foreseeable  
27 use of the PRODUCTS.

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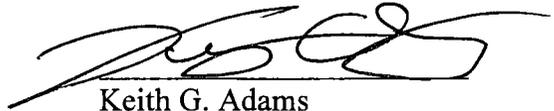


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3. That the Court grant plaintiff his reasonable attorneys' fees and costs of suit; and
4. That the Court grant such other and further relief as may be just and proper.

Dated: January 26 2007

Respectfully Submitted,  
HIRST & CHANLER, LLP



Keith G. Adams  
Attorneys for Plaintiff  
RUSSELL BRIMER