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7
8 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF ALAMEDA
UNLIMITED JURISDICTION

10 Jennie Bakondi; Mandy Leigh;

11 Plaintiffs,

12 v.

13 Ikea Group; Ikea California, LLC.; Ikea
Property, Inc.; Ikea U.S. West, Inc.; Ikea U.S.,
14 Inc.; Ikea U.S. General Partner, Inc.; Ikea North
America Services, LLC.; Ikea Wholesale, Inc.;
15 and Does 1-150;

16 Defendants,

Case No.

**COMPLAINT FOR INJUNCTIVE RELIEF
AND CIVIL PENALTIES**

Health & Safety Code §25249.5 *et seq.*

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18
19
20 Plaintiffs Jennie Bakondi and Mandy Leigh (hereafter also referred to as "Plaintiffs"), by and
21 through their counsel, on behalf of themselves, on behalf of all others similarly situated, and on
22 behalf of the general public, hereby allege as follows:

23 **I. PRELIMINARY STATEMENT**

24 1. This Complaint for injunctive relief and civil penalties (hereafter "Complaint") is a
25 representative action brought by Plaintiffs, on behalf of the citizens of the State of California, to
26 enforce each citizen's right not to be unknowingly exposed to toxic chemicals by businesses.

27 2. Ikea Group; Ikea California, LLC.; Ikea Property, Inc.; Ikea U.S. West, Inc.; Ikea

28
COMPLAINT FOR INJUNCTIVE RELIEF AND CIVIL PENALTIES

1 U.S., Inc.; Ikea U.S. General Partner, Inc.; Ikea North America Services, LLC.; Ikea Wholesale,
2 Inc.; are currently exposing and are threatening to continue to expose unaware men, women,
3 pregnant women, and children to toxic substances known to the State of California to cause
4 cancer and reproductive harm through their "Ikea" business activities, store conditions, products
5 offered and sold, and products currently in people's homes and offices throughout California.
6 The failure by Defendants to provide "clear and reasonable warning" before committing these
7 exposures and threats of exposures is in violation of the Safe Drinking Water and Toxic
8 Enforcement Act of 1986, California Health and Safety Code §25249.6. Plaintiffs' action seeks
9 remedies as provided for by statute in the form of specified civil penalties, and injunctive relief to
10 stop such exposures, and or make citizens aware that they have been and are currently being
11 exposed.

12 PARTIES

13
14 3. Plaintiff Jennie Bakondi is an individual, who is now, and at all times relevant to
15 this Complaint, a citizen of the State of California residing in Marin County or San Francisco
16 County. She is dedicated to protecting the health of California citizens, including by reducing
17 toxic exposures, and by making citizens aware of such exposures, and brings this action on
18 behalf of the general public pursuant to Cal. Health and Saf. Code §25249.7(d) acting in the
19 public interest.

20 4. Plaintiff Mandy Leigh is an individual, who is now, and at all times relevant to
21 this Complaint, a citizen of the State of California residing in Marin County or San Francisco
22 County. She is dedicated to protecting the health of California citizens, including by reducing
23 toxic exposures, and by making citizens aware of such exposures, and brings this action on
24 behalf of the general public pursuant to Cal. Health and Saf. Code §25249.7(d) acting in the
25 public interest.

26 5. Plaintiffs are ideal and well suited persons to bring this action, and typical of the
27 people of the State of California similarly situated, and whose interests Plaintiffs represent. Both

1 Plaintiffs are mothers of infants currently between the ages of 15 months and 18 months who did
2 often touch, pull and play with lamp and dimmer cords sold by Defendants, including as part of
3 their natural infant curiosity, before Plaintiffs discovered the facts alleged in this Complaint.
4 Both Plaintiffs themselves are typical Ikea product users who did touch Ikea lamp and dimmer
5 cords multiple times every day in their normal use, and did visit and shop at Ikea stores located in
6 California, before Plaintiffs discovered the facts alleged in this Complaint. Plaintiffs are ideal
7 Plaintiffs to represent the interests of the people of the State of California because they and their
8 children are representative of the people of this State, who were and still are unknowingly being
9 exposed by Defendants to chemicals known to the State of California to cause cancer and
10 reproductive toxicity.

11 6. Defendants Ikea Group; Ikea California, LLC.; Ikea Property, Inc.; Ikea U.S.
12 West, Inc.; Ikea U.S., Inc.; Ikea U.S. General Partner, Inc.; Ikea North America Services, LLC.;
13 Ikea Wholesale, Inc.; may hereafter be referred to as "Defendants," or "Ikea Defendants," which
14 shall mean each and all Defendants, including each and all Doe Defendants. Defendants are the
15 business entities which at times relevant to this Complaint have been, and still are, responsible
16 for the distribution and sale of household furniture and other products through eight (8) retail
17 "Ikea" stores they maintain and operate in California.

18 7. Defendants are and at all times relevant to this Complaint were each a "person,"
19 and "person in the course of doing business" within the meaning of Cal. Health and Saf. Code
20 §25249.11 and §25249.6. Now and at all times relevant to this action, and for all conduct alleged
21 herein, Defendants, and each of them, was a "person" pursuant to Cal. Health and Saf. Code
22 §25118. At all times relevant to this action, and for all conduct alleged herein, Defendants, and
23 each of them, were persons "in the course of doing business" as defined by California Code of
24 Regulations, title 22, §12102. Defendant, and each of them, now, and at all times relevant to this
25 Complaint, is a business licensed to do and doing business in the State of California having more
26 than 10 employees.

27 8. Each Defendant is and at all times relevant to this Complaint was an agent,

1 partner, and part of each of the other Defendants, and were and are working together in
2 committing the violations described in this Complaint. On information and belief, each and all of
3 the Defendants listed herein at times relevant to this Complaint played a knowing, material,
4 controlling, intentional and active role in the business activities herein described.

5 9. Defendants Does 1 through 150 are persons or entities whose true names and
6 identities are presently unknown to Plaintiffs and are therefore sued by such fictitious names. Of
7 these, Does 1-50 may hereafter be referred to as Manufacturer Does, Does 51-100 may hereafter
8 be referred to as Distributor Does, and Does 101-150 may hereafter be referred to as Retail Does.
9 Each of the fictitiously-named Defendants perpetrated some or all the wrongful acts alleged
10 herein, is responsible in some manner for the matters alleged herein, and is jointly and severally
11 liable for the acts complained of herein, and is included whenever "Defendants" is used.
12 Plaintiffs will seek leave of court to amend this Complaint to state the true names and capacities
13 of such fictitiously-named Defendants when ascertained. Manufacturer Does engage in the
14 process of research, testing, designing, assembling, fabricating and or manufacturing, or imply by
15 their conduct that they do so. Distributor Does distribute, exchange, transfer, process, and or
16 transport materials. Retail Does offer products for sale, sell those products, maintain premises,
17 and engage in related activities.

18 19 VENUE AND JURISDICTION

20 10. This Court has jurisdiction over this action pursuant to California Constitution
21 Article VI, §10, which grants the Superior Court original jurisdiction in all causes except those
22 given by statute to other trial courts. The statutes under which this action is brought do not
23 specify any other basis for jurisdiction. This Court is also the proper jurisdiction to bring the
24 action because of California Code of Civil Procedure sections 395 & 395.5.

25 11. This Court has jurisdiction over Defendants because Defendants distribute and sell
26 large quantities of the products described that are in violation, and maintain premises that are in
27 violation within the State of California. Plaintiffs on good faith information and belief allege that

1 each Defendant is either a citizen of the State of California, or has such minimum contacts and
2 otherwise purposely avails themselves of the jurisdiction of the State of California.

3 12. Venue is proper in Alameda because one of the stores operated by Defendants, the
4 Emeryville Ikea store is located in Alameda County, where products containing lead are being
5 displayed, sold, have been displayed and sold, and one of the California Counties where such
6 products are currently in the homes and places of business of unaware California citizens. The
7 Emeryville Ikea store also has on its premises, recycle bins which contain, and into which people
8 throw, light bulbs which contain mercury and which may break, only feet from where people eat,
9 and children play.

10 11 STATUTORY BACKGROUND

12 13. The Safe Drinking Water and Toxic Enforcement Act of 1986 is an initiative
13 statute passed as "Proposition 65" by a vote of the people of California in November, 1986.

14 14. The warning requirement of Proposition 65 is contained in Cal. Health and Saf.
15 Code §25249.6, which provides:

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

20 15. The Safe Water and Toxic Enforcement Act of 1986 Proposition 65 establishes a
21 procedure by which the state is to develop a list of chemicals "known to the state to cause cancer
22 or reproductive toxicity." (Cal. Health and Saf. Code, §25249.8.)

23 16. The substances: "Lead" (Periodic Table Element "Pb"), "Lead and Lead
24 Compounds," "Mercury" (Periodic Table Element "Hg") and "Mercury and Mercury
25 Compounds" are chemicals that are identified in the list of chemicals published pursuant to Cal.
26 Code Regs., tit. 22, §12000, known to the State of California to cause cancer and or reproductive
27 toxicity. These substances may be referred to as "Listed Chemicals" in this Complaint, and are

1 also "listed chemicals" within the meaning of relevant statutes, published in the Governor's list
2 yearly pursuant to Cal. Code Regs., tit. 22, §12000.

3 17. The State of California officially placed "Lead" on the Governor's list of
4 chemicals known to cause birth defects or other reproductive harm on February 27, 1987. Lead
5 was specifically identified under three subcategories: 1) "developmental reproductive toxicity,"
6 2) "female reproductive toxicity," and 3) "male reproductive toxicity." (Cal. Code Regs., tit. 22,
7 §12000, subd.(c)). Clear and reasonable warnings before exposure are now required. (Cal.
8 Code Regs., tit. 22, §12000.) The State of California officially listed "Lead" as a known
9 carcinogen on October 1, 1992, and clear and reasonable warnings before exposure are now
10 required. (Cal. Code Regs., tit 22, §12000). The State of California officially listed "Lead and
11 Lead compounds" as a chemical known to cause cancer on October 1, 1992, and clear and
12 reasonable warnings before exposure are now required. (Cal. Code Regs., tit 22, §12000).

13 18. The State of California officially listed "Mercury and Mercury Compounds" as a
14 chemical known to cause developmental harm on July 1, 1990, and clear and reasonable
15 warnings before exposure are now required. (Cal. Code Regs., tit 22, §12000).

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

20 20. The burden of proving that "exposure poses no significant risk assuming lifetime
21 exposure at the level in question for substances known to the state to cause cancer, and that the
22 exposure will have no observable effect assuming exposure at one thousand (1000) times the
23 level in question for substances known to the state to cause reproductive toxicity" is on the
24 Defendant pursuant to Cal. Health & Saf. Code §25249.10.

25 21. Proposition 65 enforcement is carried out through civil lawsuits. See "Proposition
26 65: A Summary", from the Office of Environmental Health Hazard Assessment, the lead agency
27 for implementation of the Safe Drinking Water and Toxic Enforcement Act of 1986.

1 judgments pursuant to such civil litigation. 25% is paid to Plaintiffs as the representative of the
2 public who brought the action under §25239.7(d), as required by §25249.12(d).

3 27. California Code of Civil Procedure §1021.5 allows for attorneys' fees to also be
4 granted to the Plaintiffs bringing this action on behalf of the citizens of the State of California,
5 stating "upon motion, a court may award attorneys' fees to a successful party against one or more
6 opposing parties in any action which has resulted in the enforcement of an important right
7 affecting the public interest if: (a) a significant benefit, whether pecuniary or nonpecuniary, has
8 been conferred on the general public or a large class of persons, (b) the necessity and financial
9 burden of private enforcement, or of enforcement by one public entity against another public
10 entity, are such as to make the award appropriate, and (c) such fees should not in the interest of
11 justice be paid out of the recovery, if any.

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13
14 **FIRST CAUSE OF ACTION**

15 **Violation of the California Safe Drinking Water and Toxic Enforcement Act of 1986**

16 **California Health & Safety Code §25249.6**

17 **(Against all Defendants)**

18 28. Plaintiffs hereby incorporate every aspect of this Complaint into this paragraph as
19 though fully set forth herein.

20 29. Based on information and good faith belief, Plaintiffs allege that, at least since
21 December of 2004, if not earlier, Defendants have engaged in conduct which violates Cal. Health
22 and Saf. Code §25249.6, et seq., and continue to do so today.

23 30. Plaintiffs have sent Notices to Defendants of their violations, including every kind
24 of Notice and other statutory prerequisite to commencement of this action. The same packages
25 of documents was sent to the California Attorney General by overnight mail, and to each and
26 every Defendant, every District Attorney in the state, and the City Attorneys of every California
27 city with population greater than 750,000 by first class U.S. mail. These packages sent included

1 two 60-Day Notices of Violation dated September 26, 2007, and October 2, 2007, each with the
2 required document entitled "Proposition 65: A Summary" prepared by California's Office of
3 Environmental Health Hazard Assessment, a Certificate of Merit attesting to the reasonable and
4 meritorious basis for Plaintiffs' allegations, including the fact that Plaintiffs have consulted one
5 or more persons with relevant and appropriate experience or expertise who has reviewed facts,
6 studies, or other data, and whose opinion supports that the allegations in the 60-Day Notice of
7 Violation have merit, as well as included a Certificate of Service attesting to the service of all
8 these documents on their respective recipients. Factual information sufficient to establish the
9 basis for the Certificate of Merit was enclosed with the packages sent to the California Attorney
10 General.

11 31. Defendants have failed to take proper action, or any significant action, or even to
12 respond to Plaintiffs' Notices.

13 32. No public enforcement agency has commenced and is diligently prosecuting a
14 cause of action under Cal. Health & Saf. Code §25249.6 et seq. against Defendants based on the
15 claims asserted in Plaintiffs' 60-Day Notices of Violation.

16 33. Defendants are, are part of, control, and or own in California the "Ikea" retail
17 furniture stores as follows: The Burbank Ikea store in Los Angeles County, the Carson Ikea store
18 in Los Angeles County, the Covina store in Los Angeles County, the Costa Mesa Ikea store in
19 Orange County, the East Palo Alto Ikea store in San Mateo County, the Emeryville Ikea store in
20 Alameda County, the San Diego Ikea store in San Diego County, and the West Sacramento Ikea
21 store in Yolo County, California.

22 34. Through Defendants' large, warehouse-size Ikea stores, facilities, and business
23 activities, Defendants distribute, ship, store, assemble, display, offer for sale, and sell their
24 products in the State of California. These products include a broad array of furniture, household,
25 and office products and accessories including lamps, lamp cords, electrical cords, and dimmer
26 switches for use with lamps.

27 35. At all times relevant to this action, Defendants' business activities, products, and
28

1 facilities are threatening to and are actually exposing people and causing exposures to Listed
2 Chemicals within the meaning of relevant statutes including Cal. Code of Regs. tit. 22, §12102,
3 wherein "Expose" means "to cause to ingest, inhale, contact via body surfaces or otherwise come
4 into contact with a listed chemical. An individual may come into contact with a listed chemical
5 through water, air, food, consumer products and any other environmental exposure as well as
6 occupational exposures."

7 36. At all times relevant to this action, the Listed Chemicals are present in or on the
8 Defendants' products and or facilities in such a way as to be available for transfer or release from
9 products or facilities to individuals during the reasonably foreseeable use of these products or
10 facilities.

11 37. The exposures and threats of exposures Defendants are committing are violations
12 of Cal. Health and Saf. Code §25249.6, and these violations are occurring in the following three
13 primary ways.

14 38. Firstly, Defendants have been exposing and are exposing men, women, pregnant
15 women, and children by the cords of some products including Ikea lamps and dimmer switches
16 that have been already sold to customers in California through Defendants' stores and business
17 activities. These "already sold" items currently exist in homes or offices in California and
18 contain unlawful amounts of the Listed Chemicals "Lead," and/or "Lead and Lead Compounds."
19 Defendants, through these products, have been, threaten to, and are causing exposures to Listed
20 Chemicals, and each such product in a home or office, whether purchased directly from Ikea,
21 second hand, or received as a gift constitutes a violation each day, for each person it exposes. On
22 information and belief, there are at least one hundred thousand such "already sold" products in
23 California homes and offices, and thus, Defendants are committing an estimated 100,000
24 violations per day through products they have already sold in California, if each of these cords is
25 touched only once per day.

26 39. On information and belief, the specific products already sold containing unlawful
27 amounts of Listed Chemicals "Lead" and or "Lead and Lead Compounds" that are causing

1 exposures include, but are not limited to the following, as the following are just examples:

2 a. Home lighting lamps, product name "Storm" product number 16441,
3 AA119853-3, 85-0261-07.

4 b. Home lighting lamps, product name "Alang" product number 16441,
5 AA49317-3, 50029162.

6 c. Home lamp dimmer switch with cord, product name "Dimma" product
7 number 16670, 906317-3, AA141492.

8 40. Tests by Plaintiffs' experts of these products' cords revealed extraordinarily high
9 levels of the Listed Chemical "Lead," with, on information and belief, amounts as high as 50 to
10 100 times the legal limit set by the State of California.

11 41. Children, babies, and infants are especially vulnerable. Not only because of the
12 danger of severe developmental harm from exposures to these Listed Chemicals, but because it is
13 well known that children, babies, and infants are attracted to electrical, lamp, and other cords as
14 part of their natural infant curiosity. They touch, grab, hold, play with and pull on these cords,
15 and then place their hands in their mouths, and meanwhile parents are completely unaware of
16 these exposures to chemicals known to the State of California to cause cancer and reproductive
17 toxicity. Pregnant women handle these products, and do not even know they should wash their
18 hands afterwards. These exposures can have potentially severe harmful effects for everyone in
19 the population including cancer, developmental, and reproductive harm.

20 42. On information and belief, and because of the percentage of Defendants' products
21 tested that gave positive results for containing Listed Chemicals, Plaintiffs allege that a
22 significant percentage of additional Ikea lamp and other products containing lamp cords or
23 similar cords in California homes and offices not mentioned specifically above also contain
24 unlawful amounts of at least one Listed Chemical.

25 43. Many of products that are the subject of this Complaint are made in China.

26 44. Defendants have caused and are causing these exposures and threats of exposures
27 every day from products Defendants have already sold, currently in homes and offices

1 throughout California, without "clear and reasonable warning" as required by Cal. Health and
2 Saf. Code §25249.6. By having sold these products without the required warning on the products
3 or in any Ikea stores, and refusing to recall these products or give the required warning,
4 Defendants are committing violations of Cal. Health and Saf. Code §25249.6 each time a man,
5 woman, or child has come or comes in contact with one of the products Defendants have
6 "already sold" that contains a Listed Chemical.

7 45. On information and belief, there are at least one hundred thousand such "already
8 sold" products in the homes and offices of unaware California citizens, and thus, Defendants are
9 committing an estimated 100,000 violations per day through products they have already sold in
10 California, currently in California homes and offices, if each of these cords is touched only once
11 per day. This constitutes within a single year, on information and belief, an estimated 36.5
12 Million violations.

13 46. Secondly, Defendants have caused and are causing these threats of exposures and
14 actual exposures through these same products described above which Defendants place on
15 display on store shelves and counters in each of their California stores without "clear and
16 reasonable warning" as required by Cal Health and Saf. Code §25249.6. There are no required
17 warnings anywhere in the store, on the products, or nearby them. Because Defendants place
18 these same products described above containing Listed Chemicals out of their packaging and on
19 display for potential and actual customers to inspect in considering a purchase, these licensees
20 and invitees are touching these displays in Ikea stores, and each man, woman, or child who has
21 come or comes in contact with one of these products in an Ikea store constitutes a violation. On
22 information and belief, an estimated additional 1000 persons touch these products in each of
23 eight Ikea stores each day, equaling an estimated 8000 violations per day, for the items on
24 display. This constitutes, within a single year, an estimated 2.9+ Million violations per year.

25 47. Thirdly, in each of Defendants' large, warehouse-size Ikea stores, pursuant to their
26 environmentally conscious image, Defendants maintain on the premises "recycle bins" for the
27 disposal of light bulbs by customers and the general public, which are in fact hazardous waste

1 disposal containers and which in fact threaten to and expose people nearby to Listed Chemicals,
2 "Mercury" and "Mercury and Mercury Compounds." Fragile light bulbs including florescent and
3 compact florescent bulbs are tossed into these open-topped bins by customers and the public with
4 no warning, directions, or instructions. These light bulbs can and do break, and release
5 "Mercury" and or "Mercury and Mercury Compounds" through dust and particles into the air
6 near these bins. These hazardous material storage and disposal bins in Ikea stores are located in
7 an indoor area, where people walking through an Ikea store pass by, and near where food is
8 offered, sold, prepared and eaten. Mercury is especially dangerous because of the potential to be
9 not only inhaled, but ingested and consumed through food, in Ikea stores often being eaten by
10 hundreds of people per day or more only feet from these hazardous waste disposal "recycle" bins.

11 48. The Environmental Protection Agency (hereafter "EPA") guidelines in the event
12 of the breaking in a domestic household of a single compact fluorescent bulb recommends that a
13 window be opened and everyone leave the room for 15 minutes, followed by very specific and
14 cautious cleanup procedures due to the threat of toxic exposure. The EPA has been identified in
15 California Code or Reg. tit. 22 §12306 as an authoritative body for identification of chemicals
16 causing reproductive toxicity.

17 49. Defendants have caused and are causing these threats of exposures and actual
18 exposures through these "recycle" bins in each of their California stores without "clear and
19 reasonable warning" as required by Cal. Health and Saf. Code §25249.6, constituting violations.
20 Defendants committed and are committing violations of Cal. Health and Saf. Code §25249.6
21 each time a man, woman, or child enters the vicinity near these bins. Because of Ikea stores'
22 walk-through layout, each person passing through each Ikea store constitutes a violation. On
23 information and belief, an estimated 2000 persons pass through each of eight Ikea stores each
24 day, equaling an estimated 16000 violations per day, for the "recycle" bins. This constitutes,
25 within a single year, an estimated 5.8+ Million violations per year.

26 50. At all times relevant to this Complaint, in committing the exposures described
27 herein, Defendants knowingly and intentionally failed to provide "clear and reasonable warning"

1 of the reproductive toxicity (as defined by Cal. Code of Regs, tit. 22, §12601) developmental
2 toxicity, toxic nature and carcinogenic nature of the exposures Defendants were and are now still
3 causing in direct violation of Cal. Health & Saf. Code §25249.6.

4 51. Plaintiffs have sent to Defendants multiple 60-Day Notices of their violations, to
5 which Defendants have failed to respond in any way. Defendants have failed still to post
6 warnings of any kind in their stores, or near their "recycle" bins, or on their products, or take any
7 action to notify former, existing customers and current owners of their products that they are
8 being exposed to Listed Chemicals.

9 52. Now and at all times relevant to this action, Defendants knowingly and
10 intentionally caused the exposures and threats of exposures described in this Complaint. The
11 normal and foreseeable use of Defendants' products, facilities, and business activities has caused
12 and continues to cause exposures to Listed Chemicals as defined by Cal. Code of Regs, tit. 22,
13 §12601 and as relevant to this Complaint. Defendants do now and have at all relevant times
14 played a significant and controlling role in design, manufacture, creation, production, and
15 delivery of their own products and facilities that are the subject of the violations. Defendants
16 know and at all times relevant to this Complaint knew that their business activities, products, and
17 facilities contained Listed Chemicals. Defendants know and at all times relevant to this
18 Complaint knew that individuals' normal and reasonably foreseeable use of Defendants' business
19 activities would cause exposures to Listed Chemicals, and that Defendants business activities
20 was causing and is causing the exposures as described in this Complaint. Now and at all times
21 relevant to this Complaint defendants knew that they were failing to warn those potentially and
22 actually exposed of these exposures. Now and at all times relevant to this Complaint, Defendants
23 knew that there was a requirement to warn of these exposures under the law. Defendants know
24 of the potential dangers of light bulbs containing Listed Chemicals because Defendants admit on
25 their own website the need for special waste disposal of light bulbs due to hazardous materials in
26 them.

27 53. At all times relevant to this Complaint, Defendants intended that such exposures

1 to Listed Chemicals would occur by their deliberate, non-accidental participation in the
2 distribution, offering and sale of their products, and from the way Defendants knowingly and
3 intentionally maintained their business facilities. Defendants intend for persons to be in their
4 stores and be under threat of contact with displayed items, intend for persons to touch and use
5 items through normal use which causes exposure, intend for people to use their already sold
6 products as what constitutes normal and foreseeable use, and intend people pass through the
7 areas of their stores where people are under threat of exposure, and Defendants financially
8 benefit from these acts.

9 54. Contrary to the intent, express language, and meaning of Cal. Health and Saf.
10 Code §25249.6, California citizens have suffered and continue to suffer irreparable harm for
11 which they have no plain, speedy, or adequate remedy at law.

12 55. Defendants' violations are particularly egregious within the criteria laid out in Cal.
13 Health and Saf. Code §25249.7 (b)(2) which is set up to determine the amount of civil penalty,
14 and Plaintiffs seek the maximum penalty of \$2500 per day for each of their estimated 124,000
15 violations per day. This number of violations is, over extent of the applicable statute of
16 limitations for these allegations as alleged, estimated to be 45,260,000 violations for the 365 days
17 prior to the filing of this Complaint. Plaintiffs seek the maximum of \$2500 per violation per day
18 for reasons including the following:

- 19 a. The amount of Lead and Lead Compounds on information and belief is
20 extraordinarily high in the products tested by Plaintiffs, perhaps nearing as high
21 as 50-100 times the legal allowable limit on many products.
- 22 b. The potential harms from Defendants' exposures to men, pregnant women,
23 and children are the worst kind of harms imaginable, and can cause devastating
24 life-altering injuries.
- 25 c. Defendants knew of the exposures and violations alleged herein, and on
26 information and belief made a "business decision" not to comply with the law
27 nor inform people. Defendants know of the potential content of Listed

1 Chemicals in their products and facilities because they direct the manufacture
2 of their own products.

3 d. It is also clear that Defendants made a business decision not to comply
4 with Cal. Health and Saf. Code §25249.6 because some of these same
5 Defendants have been sued before for Proposition 65 violations, purportedly
6 settled, and yet still do not post warnings.

7 e. It is also clear that Defendants made a business decision not to comply
8 with Cal. Health and Saf. Code §25249.6 because after they received 60-Day
9 Notices of Violations from Plaintiffs, Defendants still did not post warnings of
10 any kind in their stores nor on their products.

11 f. It is apparent that Defendants are aware of the warning requirements, yet
12 chose not to provide the required warning, neither in stores, on products, or
13 near recycle bins, while continuing to expose unaware men, women, pregnant
14 women, and children, while trying to maintain a "pro-environment" image
15 which has in effect come before the actual safety and rights of customers and
16 the general public.

17 g. Defendants are, in effect, profiting from these very exposures.

18 h. Defendants admit their own knowledge of the need for special waste
19 disposal of light bulbs due to hazardous materials in them, and it is obvious that
20 light bulbs can break when being dropped or thrown in such bins, and Listed
21 chemicals can emanate because these bins are open-topped. That cords may
22 contain lead is commonly known to those manufacturing or distributing such
23 items.

24 i. With Defendants earnings close to \$20 Billion a year in the U.S. alone,
25 their ability to pay a serious penalty and the need for a civil penalty to be high
26 in order to be effective as a deterrent is clear, especially taking into account
27 their previous purported settlement(s) in leu of compliance with warning

1 requirements for their previous violations.

2 j. Therefore, the nature and extent of the violations is egregious and severe,
3 the number and severity of the violations is high, Defendants' very high
4 earnings and profit requires a high penalty to have an economic effect on the
5 violator, the violator took no good faith measures to comply with the law, the
6 violations were completely willful, for an appropriate deterrent effect the
7 penalty must be high, and also justice requires the maximum civil penalty in
8 this case.

9 Wherefore, Plaintiffs pray for relief and judgment against Defendants as set forth
10 hereafter.

11
12 **PRAYER FOR RELIEF**

13 Wherefore, Plaintiffs pray for judgment against Defendants as follows:

14 56. Plaintiffs seek preliminary and permanent injunctive relief pursuant to Health and
15 Saf. Code §25249.7 to compel Defendants to bring their practices into compliance with the
16 California Clean Water and Toxic Enforcement Act of 1986 by ordering all unlawful business
17 activities to be enjoined, as follows:

18 57. Plaintiffs seek a preliminary and permanent injunction prohibiting Defendants
19 from selling any product described herein in California until they have proven that such products
20 do not contain Listed Chemicals

21 58. Plaintiffs seek an order directing all Defendants to identify and locate each
22 individual who in the past has purchased or may have received a gift or currently possesses any
23 product purchased from Defendants containing a Listed Chemical. Plaintiffs seek an order
24 directing Defendants to provide "clear and reasonable warning" to every such individual. This
25 warning should inform persons that they may have been or may be exposed to products that may
26 cause cancer or reproductive toxicity, and may continue to be exposed to such Listed Chemicals,
27 as well as the nature of the exposure, potential harm, and any rights or remedies that person may

1 have.

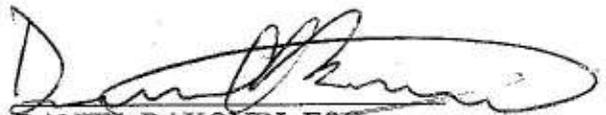
2 59. Plaintiffs seek an order directing Defendants to provide "clear and reasonable
3 warning" to every individual who in the present or future may be exposed to any Listed
4 Chemicals through exposure through Defendants' business activities. This warning should
5 inform persons that they may have been or may be exposed to products that may cause cancer or
6 reproductive toxicity, and may continue to be exposed to such Listed Chemicals, as well as the
7 nature of the exposure, potential harm, and any rights or remedies that person may have.

8 60. Regardless of any injunctive relief that may be granted, Plaintiffs also seek civil
9 penalties against each and every Defendant for their past conduct as called for by Cal. Health &
10 Saf. Code §25249.7(b) of the maximum amount of \$2,500 per day, for each of their millions of
11 violations described above.

12 61. Plaintiffs also seek, pursuant to California Code of Civil Procedure section
13 §1021.5, that Defendants be ordered to pay attorneys' fees and costs incurred in bringing and
14 pursuing this action because this action is enforcement of an important right affecting the public
15 interest, because a significant benefit is being conferred on the general public or large class, the
16 necessities of private enforcement make such an award appropriate, and such fees in the interest
17 of justice should not be paid out of the recovery.

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20 DATED: January 18, 2008

LAW OFFICE OF DANIEL BAKONDI

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23 DANIEL BAKONDI, ESQ.
24 Attorney for Plaintiffs