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8 REINA GARCIA

**ELECTRONICALLY FILED**  
Superior Court of California,  
County of Orange  
**10/09/2012** at 10:18:00 AM  
Clerk of the Superior Court  
By Enrique Veloz, Deputy Clerk

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 FOR THE COUNTY OF ORANGE, COMPLEX

11  
12 REINA GARCIA ) **CASE NO. 30-2012-00557880-CU-BC-**  
13 ) **CXC**  
14 Plaintiff, )  
15 vs. ) **FIRST AMENDED COMPLAINT**  
16 ) **ALLEGING CAUSES OF ACTION**  
17 TARGET, a Minnesota corporation, W.C. ) **FOR:**  
18 Bradley, a business entity of unknown form, ) **(1) VIOLATION OF HEALTH &**  
19 BASE4 Group, Inc., a Texas corporation, ) **SAFETY CODE SECTIONS 25249.6**  
20 and DOES 1 through 75, inclusive, ) **ET SEQ**  
21 Defendants. ) **PRAYER FOR STATUTORY**  
22 ) **PENALTIES**  
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1. Plaintiff, Reina Garcia (“Plaintiff” or “Reina Garcia”), brings this action against Defendants Target, a Minnesota corporation, W.C. Bradley, a business of unknown form, BASE4 Group, Inc., a Texas corporation, Does 1-25 (also referred to as part of “Defendants”), Does 26-50 (referred to, generally, as “Managing Agent Defendants”), and Does 51-75 (referred herein as “Other Defendants”) (Does 1-75 and the named Defendants are collectively referred to as Defendants in the plural, or Defendant in the singular) and allege, on information and belief, as follows:

1 **PARTIES**

2 2. Plaintiff Reina Garcia is acting as a private citizen prosecuting the instant claim in  
3 accordance with Health & Safety Code Section 25249.7.

4 3. The statutory requirements of notice, non-action by any governmental agency required  
5 under the notice, and the 60-day waiting time for Plaintiff to sue as a private actor under this  
6 statute has been satisfied. Plaintiff Reina Garcia is a former and current customer of Target,  
7 which as a retailer, sold Charbroil Barbecue Products in its stores, including those stores in Los  
8 Angeles and/or Orange County frequented by Plaintiff. Since at least March 9, 2012, said  
9 equipment comprised Charbroil BBQ Grill Brushes and Grill Brush Heads bearing model  
10 numbers 08116, 08117, and 08118 (hereafter also collectively referred to as “Barbecue  
11 Products”).

12 4. Defendant Target allowed said Barbecue Products to be sold in its stores in California,  
13 including in Los Angeles, Orange and other California counties, from W.C. Bradley, the  
14 distributor and licensee of the Char-broil barbecue brand who, on information and belief, had an  
15 arrangement or agreement with BASE4 Group, Inc., understood to be a corporation doing  
16 business out of Carrollton, Texas, to import or obtain said products from a manufacturer in  
17 China. Defendants were transacting or conducting business purposefully availing themselves of  
18 the rights, privileges and laws of the State of California, and Los Angeles and Orange Counties  
19 with the expectation that the aforementioned products would be distributed and sold in the Target  
20 stores in various California counties, including the County of Los Angeles and County of  
21 Orange, State of California.

22 5. The true names and capacities, whether individual, corporate, associate, representative  
23 or otherwise, of Defendants, Does 1-75, inclusive, are unknown to Plaintiff, who therefore sue  
24 these defendants by said fictitious names. Does 1-25 will also be designated as part of  
25 Defendants; Does 26-50 as Managing Agents Defendants; and Does 51-75 as Other Defendants.  
26 All Defendants are collectively referred to as Defendants or Defendant. Plaintiff will amend this  
27 complaint to allege the true names and capacities of Does 1 through 25, 26 through 50, and 51-

1 75 when they have been ascertained. Does 1 through 25, 26 through 50, and 51-75 are in some  
2 manner legally responsible for the wrongs and injuries alleged herein.

3 6. Each Defendant and every Defendant acted as the agent or employee of the others and  
4 each acted within the scope of that agency or employment. Moreover, to avoid injustice, Plaintiff  
5 in her personal, sues each and every one of its entities under the doctrine of successor liability to  
6 avoid an inequitable result arising from a situation in which the successor entity purports to sell  
7 the assets and not any or some liabilities pre-existing to the successor-in-interest who, by the  
8 evidence, undertakes no material change in the operation of the business.

9 7. It is the purpose and function of the alter ego doctrine to prevent injustice. The  
10 doctrine of alter ego is generally resorted to when it is necessary to avoid a grave injustice.  
11 Adherence to the fiction of the separate existence(s) of the corporations constituting the  
12 Defendants identified herein would, under the particular circumstances, sanction a fraud and/or  
13 promote injustice. Plaintiff is informed and believes that the situation presented herein regarding  
14 the Defendants is that they, and each of them, acted without corporate separateness and in bad  
15 faith in failing to apply and/or comply with the applicable California laws alleged herein. As  
16 such corporate separateness was illusory and not real, Plaintiff accordingly alleges that the  
17 separateness of each of the Defendants not be recognized to avoid probable fraud, confusion  
18 and/or injustice to Plaintiff.

19 **JURISDICTION AND VENUE**

20 8. This Court has personal jurisdiction over this action pursuant to Code of Civil  
21 Procedure Section 410.10. Plaintiff invokes this Court's subject matter jurisdiction herein on the  
22 grounds that genuine and existing controversies exist relating to Plaintiff's rights against  
23 Defendants, which require adjudication. Plaintiff seeks damages in excess of the jurisdictional  
24 minimum of this Court.

25 9. Venue is proper in Orange County because, at all times relevant hereto, one of the  
26 Defendants, if not more, resides in Orange County, was and is licensed to do business, and/or did  
27 and/or continues to do business in Orange County, California.

28 **FIRST CAUSE OF ACTION**

1 **(Violations of the California Health & Safety Code Sections 25249.6 et seq. by Defendants)**

2 10. Defendant Target operates retail department stores throughout the United States, if  
3 not internationally. Defendants W.C. Bradley, Base4 Group, Inc. and Does 1-25 are defendants  
4 who supplied, distributed and/or sold to Target the barbecue product models identified above.  
5 Each of the Defendants knowingly and intentionally exposed individuals to a chemical, i.e., lead,  
6 known to the state to cause cancer or reproductive toxicity without first giving clear and  
7 reasonable warning to such individual. Particularly, in California, Defendants are subjected to  
8 state law relating to Prop. 65 codified at Health & Safety Code Section 25249.6 et seq. requiring  
9 the disclosure or warning that any products it sells within the state must warn consumers and  
10 customers of unsafe levels of chemicals deemed by the State of California to be harmful, when  
11 such chemicals exceed certain limits.

12 11. In or about March 2012, Plaintiff purchased the Barbecue Products from Target in a  
13 in store in Southern California, which Plaintiff is informed and believe were sold prior to that  
14 date, and subsequent thereto, in other Southern California stores of Target.

15 12. Defendants knew or should have known, and foreseeably should have expected that  
16 the individuals shopping at Target Stores could, would and did buy the Barbecue Products  
17 referenced above. Said products did not contain any warning labels relating to the potential or  
18 actual dangers or health consequences of coming into contact with, or allowing such products to  
19 come into contact with food or surfaces meant for cooking food, which foreseeably lead to  
20 contact with food and, ultimately, human consumption of such food. At least some of the  
21 products in question contained amounts of lead that exceed the allowance set forth by Health &  
22 Safety Code Section 25259.6 et seq. and its related regulations. Accordingly, some if not all of  
23 such products were required to give warning to the consumer that they contained lead in  
24 accordance with said provisions. Because such products failed to give the requisite warnings,  
25 Defendants, and/or each of them violated said provisions, and are therefore subject to the  
26 sanctions, penalties set forth therein; and Plaintiff is entitled to the benefits, rights and remedies  
27 therein.

28 **PRAYER FOR RELIEF**

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1. For an order of statutory penalties authorized by Health & Safety Code Section 25249.5 et seq. according to proof at trial;
2. For an award of costs and reasonable attorneys' fees as permitted by law;
- 3 For such other and further relief as the Court deems just and proper.

DATED: October 9, 2012



ABRAHAM H. TANG  
Attorneys for Plaintiff  
REINA GARCIA

1  
2 **PROOF OF SERVICE**

3 STATE OF CALIFORNIA, COUNTY OF ORANGE

4 I am over the age of eighteen and not a party to the within action; my business  
5 address is LAW OFFICE OF ABRAHAM TANG, 500 North State College Blvd, Suite 1100,  
6 Orange, CA 92868.

7 On October 9, 2012, I served the foregoing document described as **FIRST**  
8 **AMENDED COMPLAINT** on the interested parties in this action by placing ( ) the original (X)  
a true copy thereof enclosed in a sealed envelope addressed as follows:

9 Glynn & Finley, LLP	Fulbright & Jaworski LLP
10 James Hanlon, Jr.	Jeffrey Margulies
Jonathan Eldredge	Margot Fourqurean
11 100 Pringle Ave., Suite 500	555 S. Flower Street, 41 <sup>st</sup> Floor
Walnut Creek, CA 94596	Los Angeles, CA 90071
12 Attorneys for Defendants BASE4 Group, Inc.	Attorneys for Defendant
Target Corporation, W.C. Bradley	Target Corporation

13  
14 (X) BY MAIL

15 ( ) I deposited such envelope in the mail at Placentia, California. The envelope was  
16 mailed with postage thereon fully prepaid.

17 (X) I caused such envelope to be deposited in the mail at Placentia, California. The  
18 envelope was mailed with postage thereon.

19 It was deposited with U.S. Postal Service in the ordinary course of business. I am  
20 aware that on motion of party served, service is presumed invalid if postal cancellation date is  
more than one day after date of deposit for mailing in affidavit.

21 Executed on October 9, 2012, at Placentia, California.

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

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ABRAHAM TANG