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7 GLOBAL COMMUNITY MONITOR, and
8 SUNSHINE PARK LLC

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 COUNTY OF ALAMEDA

RG 14733979

11 GLOBAL COMMUNITY MONITOR, a non-)
12 profit California corporation, and SUNSHINE)
13 PARK LLC, a California limited liability)
14 company,)

13 Plaintiffs,

14 v.

15 LUMBER LIQUIDATORS, INC., a Delaware)
16 corporation, and LUMBER LIQUIDATORS)
17 HOLDINGS, INC., a Delaware corporation,)

18 Defendants.

Case No. _____

COMPLAINT

Safe Drinking Water And Toxic Enforcement
Act of 1986, Health & Safety Code §25249.5,
et seq. (Proposition 65)

19 Plaintiffs GLOBAL COMMUNITY MONITOR and SUNSHINE PARK LLC on behalf of
20 themselves, their members, and in the interests of the general public, on information and belief, hereby
21 allege:

22 **INTRODUCTION**

23 1. This action seeks to remedy the continuing failure of Defendants Lumber Liquidators,
24 Inc. and Lumber Liquidators Holdings, Inc., (“Lumber Liquidators” or “Defendants”) to warn
25 consumers in California that they are being exposed to formaldehyde, a substance known to the State
26 of California to cause cancer. Such exposures have occurred, and continue to occur, through the
27

1 marketing, distribution, sale and use in California of certain laminate flooring products containing the
2 cancer-causing chemical, formaldehyde, and sold by Lumber Liquidators (collectively the
3 “PRODUCTS”).

4 2. Defendants’ failure to warn is even more egregious due to their false and misleading
5 statements concerning formaldehyde emissions released from certain of the PRODUCTS.

6 3. In contrast to Lumber Liquidators’ direct representations on its product labels, website,
7 and warranties that its flooring products comply with strict formaldehyde standards, Plaintiffs’
8 extensive testing has shown that the toxic formaldehyde levels released from many of the Defendants’
9 Chinese-made laminate flooring products at the time of testing are far above levels requiring cancer
10 warnings under California law. Plaintiffs conducted over fifty tests using various test methods and
11 two different laboratory locations. Test results showed average exposures at the time of testing
12 exceeded 4,000 micrograms per day (“µg/day”) – over 100 times above the 40 µg/day threshold
13 established by California’s Safe Drinking Water and Toxic Enforcement Act of 1986, Health and
14 Safety Code (“H&S Code”) section 25249.5, et seq., (“Proposition 65”). Even accounting for a
15 decrease in formaldehyde emissions over time, the daily exposures are still well above the Proposition
16 65 thresholds. According to Lumber Liquidators’ public filings, the significant majority of its
17 laminate flooring products is sourced in China.

18 4. Lumber Liquidators advertises, “At Lumber Liquidators, we negotiate directly with the
19 mills and eliminate the middleman. And that means big savings on flooring for you.”
20 (www.lumberliquidators.com/ll/home). But, as described below in more detail, Lumber Liquidators’
21 low prices are due in part to its business practice of selling inexpensive, largely Chinese-sourced
22 products that violate California formaldehyde standards and Lumber Liquidators’ failure to warn the
23 public of the high formaldehyde levels in its products.

24 5. Formaldehyde gas (hereinafter, the “LISTED CHEMICAL” or “formaldehyde”) is a
25 substance known to the State of California to cause cancer. Exposure to formaldehyde is linked to
26 increased risk of cancer of the nose, sinuses, nasopharyngeal and oropharyngeal cancer, and lung
27 cancer. Formaldehyde also causes burning eyes, nose and throat irritation, coughing, headaches,

1 dizziness, joint pain and nausea.

2 6. Laminate wood flooring is generally composed of a base layer of pressed wood
3 (frequently medium-density fiberboard (MDF)), which is a mixture of wood particles bonded together
4 with glue or resin, a high-quality photographic image of wood, and a scratch-resistant coating.

5 7. Inexpensive laminate wood flooring, often produced in China, can be a significant
6 source of formaldehyde gas since formaldehyde-based glues and resins (in particular urea-
7 formaldehyde resin) are often used to hold the pressed wood particles together.

8 8. Plaintiffs understand that it is possible to manufacture pressed wood products with
9 different mixtures of urea-formaldehyde resins and thus a range of formaldehyde emissions. Some
10 pressed wood products have low, or no, added formaldehyde. However, such low-emission products
11 may have longer curing times, lower manufacturing throughput, and higher production costs. On
12 information and belief, these costs are higher than the levels Chinese mills are accustomed to incurring
13 in producing inexpensive laminate flooring of the type sold by Lumber Liquidators.

14 9. Given the significant presence of high formaldehyde emitting resins in the production
15 of Chinese-made flooring and Lumber Liquidators' emphasis on cost savings, the Plaintiffs engaged a
16 certified laboratory to test laminate flooring purchased from Lumber Liquidators. Forty boxes of the
17 PRODUCTS were purchased and to date over fifty tests have been performed. Of the products tested,
18 by far the highest formaldehyde levels were found in the PRODUCTS sold by Lumber Liquidators
19 that were produced in China, where the significant majority of Lumber Liquidators' laminates
20 originate. Without exception, the Lumber Liquidators products produced in China that Plaintiffs
21 tested emitted formaldehyde at far higher rates than those manufactured in Europe or North America –
22 on average, Chinese products emitted at 350% the rate of European/North American products.

23 10. As the handling and/or use of the PRODUCTS causes exposures to formaldehyde at
24 levels requiring a clear and reasonable warning under Proposition 65, Lumber Liquidators' sale and
25 continued selling of the PRODUCTS without the warnings required by Proposition 65 has caused and
26 continues to cause individuals (and in particular children and the elderly who spend more of their day
27 at home) to be involuntarily and unwittingly exposed to formaldehyde in violation of Proposition 65.

1 California market through the distribution and sale of the PRODUCTS in the State of California to
2 render the exercise of jurisdiction over them by the California courts consistent with traditional
3 notions of fair play and substantial justice.

4 15. Venue in this action is proper in the Alameda Superior Court because the Defendants
5 have violated California law in the County of Alameda.

6 16. On April 11, 2014, Plaintiffs sent a 60-Day Notice of Violation of Proposition 65
7 (“Notice”) to the requisite public enforcement agencies, and to Defendants. A true and correct copy of
8 the Notice is attached hereto as Exhibit A and incorporated by reference. The Notice was issued
9 pursuant to, and in compliance with, the requirements of H&S Code §25249.7(d) and the statute’s
10 implementing regulations regarding the notice of the violations to be given to certain public
11 enforcement agencies and to the violator. The Notice included, *inter alia*, the following information:
12 the name, address, and telephone number of the noticing individual; the name of the alleged violator;
13 the statute violated; the approximate time period during which violations occurred; and descriptions of
14 the violations, including the chemicals involved, the routes of toxic exposure, and the specific product
15 or type of product causing the violations, and was issued as follows:

- 16 a. Defendants were provided a copy of the Notice by Certified Mail.
- 17 b. Defendants were provided a copy of a document entitled “The Safe Drinking
18 Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary.”
- 19 c. The California Attorney General and the requisite public prosecutors were
20 provided a copy of the Notice via United States First Class certified mail
21 pursuant to Health & Safety Code § 25249.7.
- 22 d. The California Attorney General was provided with a Certificate of Merit by the
23 attorney for the noticing party, stating that there is a reasonable and meritorious
24 case for this action, and attaching factual information sufficient to establish a
25 basis for the certificate, including the identity of the persons consulted with and
26 relied on by the certifier, and the facts, studies, or other data reviewed by those
27 persons, pursuant to H&S Code §25249.7(h)(2).

1 offices located at 3000 John Deere Road, Toano, Virginia, and is a person doing business within the
2 meaning of H&S Code §25249.11.

3 24. LUMBER LIQUIDATORS directly or indirectly engages third party mills to
4 manufacture and package the PRODUCTS and distributes, markets, and/or sells the PRODUCTS, in
5 each case, for sale or use in California and in Alameda County.

6 25. Defendant LUMBER LIQUIDATORS HOLDINGS, INC., (“LLH”) is a
7 corporation organized under the State of Delaware’s Corporation Law, with its principal
8 executive offices located at 3000 John Deere Road, Toano, Virginia, and is a person doing
9 business within the meaning of H&S Code §25249.11.

10 26. LLH directly or indirectly engages third party mills to manufacture and package the
11 PRODUCTS and distributes, markets and/or sells the PRODUCTS, in each case, for sale or use in
12 California and in Alameda County.

13 27. LUMBER LIQUIDATORS and LLH shall be jointly referred to as “Lumber
14 Liquidators” or “Defendants.”

15 28. Lumber Liquidators is one of the largest specialty retailers of hardwood flooring in the
16 United States, with over 300 retail stores in 46 states, including 34 stores in California and three stores
17 in Alameda County.

18 **STATUTORY BACKGROUND**

19 **PROPOSITION 65**

20 29. The People of the State of California have declared in Proposition 65 their right “[t]o be
21 informed about exposures to chemicals that cause cancer, birth defects, or other reproductive harm.”
22 (Section 1(b) of Initiative Measure, Proposition 65).

23 30. To effect this goal, Proposition 65 requires that individuals be provided with a “clear
24 and reasonable warning” before being exposed to substances listed by the State of California as
25 causing cancer or reproductive toxicity. H&S Code §25249.6 states, in pertinent part:

26 No person in the course of doing business shall knowingly and intentionally expose any
27

individual to a chemical known to the state to cause cancer or reproductive toxicity without first giving clear and reasonable warning to such individual....

31. “‘Knowingly’ refers only to knowledge of the fact that a discharge of, release of, or exposure to a chemical listed pursuant to Section 25249.8(a) of the Act is occurring. No knowledge that the discharge, release or exposure is unlawful is required.” (27 California Code of Regulations (“CCR”) §25102(n)).

32. Proposition 65 provides that any person “violating or threatening to violate” the statute may be enjoined in a court of competent jurisdiction. (H&S Code §25249.7). The phrase “threatening to violate” is defined to mean creating “a condition in which there is a substantial likelihood that a violation will occur.” (H&S Code §25249.11(e)). Violators are liable for civil penalties of up to \$2,500 per day for each violation of the Act. (H&S Code §25249.7.)

FACTUAL BACKGROUND

33. On January 1, 1988, the State of California officially listed Formaldehyde (gas) as a chemical known to cause cancer. Formaldehyde became subject to the warning requirement one year later and was therefore subject to the “clear and reasonable” warning requirements of Proposition 65 beginning on January 1, 1989. (27 CCR §25000, *et seq.*; H&S Code §25249.5, *et seq.*).

34. Due to the high toxicity of formaldehyde, the “safe harbor” no significant risk level for formaldehyde is 40 µg/day (micrograms per day). 27 CCR § 25705(c).

35. Defendants distribute, market, and/or sell in California certain flooring products containing formaldehyde, including, but not limited to, each of the following PRODUCTS:

- a. 8 mm Bristol County Cherry Laminate Flooring;
- b. 8 mm Dream Home Nirvana French Oak Laminate Flooring;
- c. 12 mm Dream Home Kensington Manor Antique Bamboo Laminate Flooring;
- d. 12 mm Dream Home St. James Oceanside Plank Bamboo Laminate Flooring;
- e. 12 mm Dream Home Kensington Manor Warm Springs Chestnut Laminate Flooring;
- f. 15 mm Dream Home St. James Sky Lakes Pine Laminate Flooring;

- g. 12 mm Dream Home Ispiri Chimney Tops Smoked Oak Laminate Flooring;
- h. 12 mm Dream Home Kensington Manor Imperial Teak Laminate Flooring;
- i. 12 mm Dream Home St. James Vintner's Reserve Laminate Flooring;
- j. 12 mm Dream Home Kensington Manor Cape Doctor Laminate Flooring;
- k. 12 mm Dream Home St. James Cumberland Mountain Oak.

36. To test Defendants' PRODUCTS for formaldehyde, Plaintiffs relied on analytical testing and results from a well-respected and accredited testing laboratory at two different locations ("the Laboratories").

37. The Laboratories conducted over fifty separate tests on the PRODUCTS using a variety of different methodologies, and different samples of the PRODUCTS. Test methods included methods developed by ASTM International, formerly known as the American Society for Testing and Materials (ASTM), a globally recognized leader in the development and delivery of international voluntary consensus standards, with different sample preparations and surfaces covered to understand exposures both during and after installation.

38. The results of testing undertaken by the Laboratories show that the PRODUCTS tested were in violation of the 40 µg/day "safe harbor" daily dose limit set forth in Proposition 65's regulations.

39. The testing results varied across samples and testing methods, but the results unambiguously showed that Lumber Liquidators' laminate flooring samples from China produced formaldehyde exposures that were at the time of testing far in excess of the 40 µg/day Proposition 65 level. Plaintiffs conducted over fifty tests. Test results showed average exposures at the time of testing exceeded 4,000 µg/day – over 100 times above the 40 µg/day Proposition 65 threshold. Of the PRODUCTS tested by the Laboratories, those manufactured in Europe or North America produced vastly lower formaldehyde emissions at the time of testing than the PRODUCTS manufactured in China (over 70% less). Even though the products manufactured in Europe and North America have significantly lower emissions, the associated exposures are still well above the 40 µg/day "safe harbor"

1 daily dose limit set forth in Proposition 65's regulations. Even accounting for the decrease in
2 formaldehyde emissions over time, the daily exposures are still well above the Proposition 65
3 thresholds.

4 **LUMBER LIQUIDATORS KNOWINGLY EXPOSED THE PUBLIC TO FORMALDEHYDE**

5 40. At all times relevant to this action, Lumber Liquidators has knowingly exposed users
6 and handlers of the PRODUCTS to formaldehyde without first giving a clear and reasonable warning to
7 such individuals.

8 41. People are being unwittingly exposed to formaldehyde through inhalation on a daily
9 basis, particularly since flooring products often cover much of the floor area of a home, where children,
10 adults and the elderly spend most of their time every day for decades.

11 42. On June 20, 2013, the widely-read financial-industry website, *Seeking Alpha*, published
12 a lengthy article documenting high formaldehyde levels in Chinese-made laminate flooring sold by
13 Lumber Liquidators. The author of the article, Xuhua Zhou, retained a certified laboratory to test three
14 samples of Chinese-made engineered wood flooring sold by Lumber Liquidators. Mr. Zhou's article
15 states, "The tested product, Mayflower 5/16" x 5" Bund Birch Engineered, emits a staggering three and
16 half times over the government mandated maximum emission level. The product is clearly not CARB
17 [California Air Resources Board] compliant yet Lumber Liquidators tagged CARB compliance on the
18 box." (<http://seekingalpha.com/article/1513142-illegal-products-could-spell-big-trouble-at-lumber-liquidators>).

19
20 43. Mr. Zhou presented his findings to the California Air Resources Board on or about June
21 19, 2013.

22 44. On or about November 26, 2013, a federal securities class action lawsuit was filed
23 against Lumber Liquidators in the United States District Court in Virginia based on drops in the stock
24 price following the *Seeking Alpha* article and its allegations concerning formaldehyde. (*Kiken v.*
25 *Lumber Liquidators Holdings, Inc., et al.*, 4:2013-cv-00157 (E.D.Va)). This case is currently pending.

26 45. On or about December 3, 2013, a class action complaint was filed against Lumber
27 Liquidators alleging claims related to illegal formaldehyde exposures. (*Williamson v. Lumber*

1 *Liquidators Holdings, Inc.*, 1:13-cv-01487-AJT-TCB (E.D.Va.)). Although the case was dismissed due
2 to a technicality, there can be no question that Lumber Liquidators was made aware of the
3 formaldehyde problem with its Chinese-made products.

4 46. Numerous Lumber Liquidators customers have posted internet complaints concerning
5 formaldehyde emissions.

6 47. Sandra of Vienna, Virginia posted on the Consumer Affairs website on May 30, 2013:

7 Recently, I had bamboo flooring from Lumber Liquidators installed... I noted the odor
8 as the installation took place and found it quite peculiar... Within the next 48 hours I
9 realized it was not a temporary odor. I have burning nostrils; my face feels like it is
10 stinging, and I'm having a dull headache. Yet, when I leave the house, the above
11 symptoms disappear... I believe the bamboo wood has a high level of formaldehyde.
12 (www.Consumeraffairs.com/homeowners/lumber_liquidators.html)

13 48. Bethany of New York city wrote on the Consumer Affairs website on July 27, 2013:

14 Formaldehyde in bamboo flooring - There is a class action lawsuit against this company.
15 I noticed my eyes burning whenever I was in the room where the flooring had been
16 placed. Just today I started looking into it, wondering if I was allergic to bamboo!
17 Lumber Liquidators has been informed on the high level of toxins and responded by
18 having a massive sale. Their stock has plummeted. They need to issue a recall but in the
19 meantime no one will talk to me.
20 (http://www.consumeraffairs.com/homeowners/lumber_liquidators.html?page=3)

21 49. Smith Miller posted on April 3, 2010:

22 We purchased Morning Star Bamboo from Lumber Liquidators and installed it in a
23 bedroom... We noticed a strange, acrid odor right after installation. We weren't using
24 the room much, though, so it wasn't a problem. We just left the window open for a few
25 days, thinking that would take care of it. Well, a couple months later we moved in and
26 the fumes were AWFUL – I mean, make your eyes tear and your nose burn awful. For
27 the past month we have been venting the room with a fan to the outside, but it doesn't
28 seem to be doing much good. We've been sleeping in this room and if we can't ventilate
it for at least ten hours first (and we often can't now that the weather is getting so cold)
then I wake up with a burning nose and a headache and my husband's eyes swell up.
This product supposedly meets "more stringent" European emission standards, but it is
definitely causing a health issue for us – perhaps not for folks who don't have allergies or
sensitivities or whatever, but for us it is a big problem. LL will not take what's left back.
(<http://www.plumbingforums.com/forum/f4/sick-bamboo-floor-fumes-problem-415/>)

50. Based on these lawsuits, articles and blog posts, there can be no question that at all
times relevant to this action, Defendants have knowingly and intentionally exposed the users and/or
handlers of the PRODUCTS to the LISTED CHEMICAL without first giving a clear and reasonable

1 warning to such individuals.

2 51. The PRODUCTS have been sold by Defendants for use in California since at
3 least April 11, 2011.

4 52. The PRODUCTS continue to be distributed and sold in California without the
5 requisite warning information.

6 53. As a proximate result of acts by Defendants, as a person in the course of doing business
7 within the meaning of Health & Safety Code §25249.11, individuals throughout the State of
8 California, including in the County of Alameda, have been exposed to the LISTED CHEMICAL
9 without a clear and reasonable warning. The individuals subject to the illegal exposures include
10 normal and foreseeable users of the PRODUCTS, as well as all other persons exposed to the
11 PRODUCTS.

12 **LUMBER LIQUIDATORS HAS NOT PROVIDED PROPOSITION 65 WARNINGS**
13 **FOR ANY OF THE PRODUCTS**

14 54. At all times relevant to this action, Lumber Liquidators has failed to provide individuals
15 in the State of California with a “clear and reasonable warning” before exposing those individuals to
16 cancer-causing formaldehyde.

17 55. At all times relevant to this action, Lumber Liquidators has failed to place a clear and
18 reasonable Proposition 65 warning on its PRODUCTS.

19 56. At all times relevant to this action, Lumber Liquidators sales representatives have failed
20 to warn consumers that its PRODUCTS contain cancer-causing formaldehyde.

21 57. At all times relevant to this action, Lumber Liquidators has failed to place a clear and
22 reasonable Proposition 65 warning in its marketing materials.

23 58. At all times relevant to this action, Lumber Liquidators has failed to place a clear and
24 reasonable Proposition 65 warning in its stores or store shelves.

25 59. At all times relevant to this action, Lumber Liquidators has failed to place a clear and
26 reasonable Proposition 65 warning on its website.

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1 **RATHER THAN WARN THE PUBLIC, LUMBER LIQUIDATORS ENGAGED**
2 **IN A CAMPAIGN OF FALSE OR MISLEADING STATEMENTS**
3 **CONCERNING FORMALDEHYDE**

4 60. Despite being informed of the presence of high levels of formaldehyde in its
5 PRODUCTS, Lumber Liquidators engaged in a campaign to mislead the public with misleading
6 information concerning the safety of its products.

7 61. Lumber Liquidators’ website leads consumers to believe that the Company’s flooring
8 products comply with the CARB formaldehyde and other California standards. The website states
9 (*emphasis in the original*):

10 **“Is Lumber Liquidators Compliant with the California law?**

11 **Laminate and engineered flooring products sold by Lumber Liquidators are purchased**
12 **from mills whose production method has been certified by a Third Party Certifier**
13 **approved by the State of California to meet the CARB standards.** The scope of the
14 certification by the Third Party Certifier includes the confirmation that the manufacturer has
15 implemented the quality systems, process controls, and testing procedures outlined by CARB
16 and that their products conform to the specified regulation limits. The Third Party Certifier also
17 provides ongoing oversight to validate the manufacturers’ compliance and manufacturers must
18 be periodically re-certified.

19 **Does CARB only apply to California?**

20 Though it currently applies only to products sold in California, **Lumber Liquidators made a**
21 **decision to require all of our vendors to comply with the California Air Resources Board**
22 **regulations regardless of whether we intended to sell the products in California or any**
23 **other state/country.**

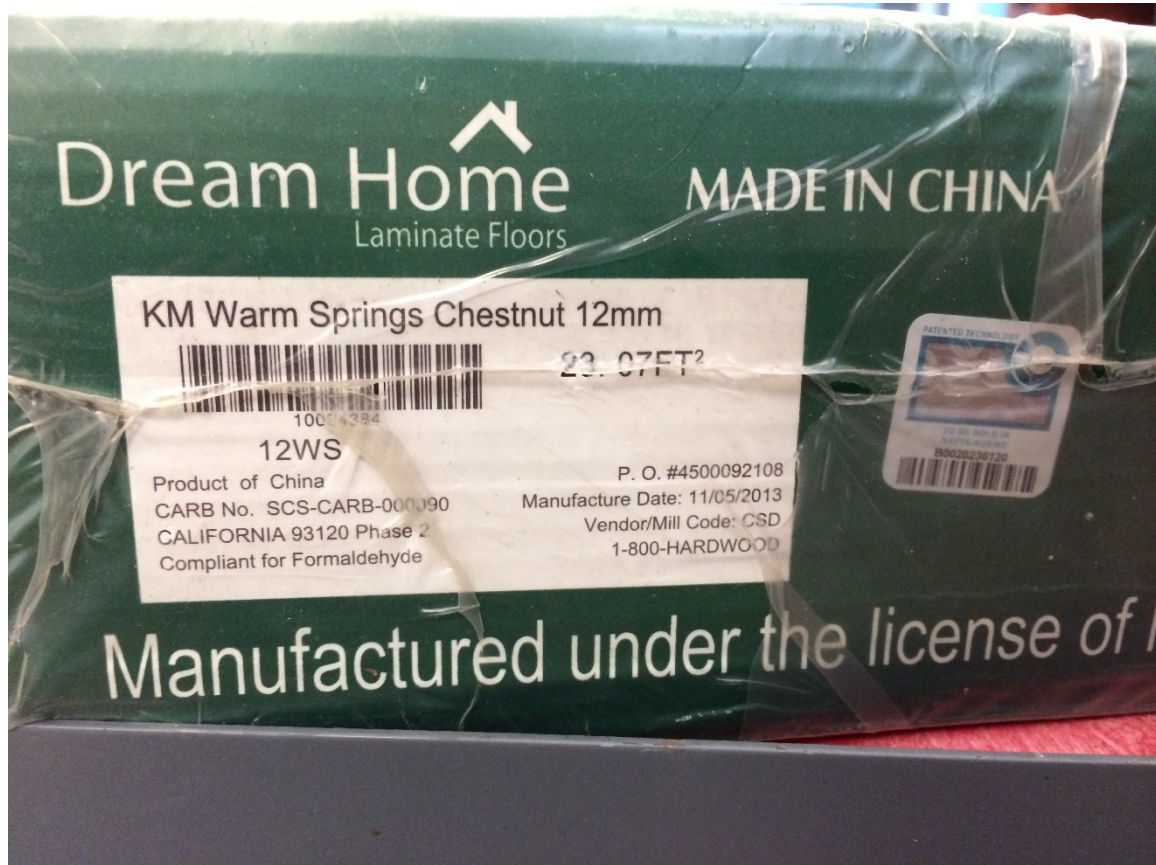
24 **What extra steps does Lumber Liquidators take to ensure compliance?**

25 In addition to the California Air Resources Board requirements, **Lumber Liquidators**
26 **regularly selects one or more finished products from each of its suppliers and submits**
27 **them for independent third-party lab testing.** This is done as a monitoring activity to
28 validate ongoing quality control.” (http://www.lumberliquidators.com/ll/flooring/ca-air-resources-board-regulations?Wt.ad=GLOBAL_FOOTER_CaliRegCARB).

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1 62. In addition, the product packaging for many of the PRODUCTS states: “CARB ...
2 Phase 2 Compliant for Formaldehyde.”



17 63. Lumber Liquidators’ purchase orders come with a warranty from the
18 manufacturers/packagers stating that the PRODUCTS comply “with all applicable laws, codes and
19 regulations,” and “bear all warnings, labels, and markings required by applicable laws and
20 regulations.” (www.lumberliquidators.com/ll/customer-care/potc800201)

21 64. Lumber Liquidators website guarantees the “highest quality” flooring, and states
22 (*emphasis in the original*):

23 “1) **INSPECTION** - We inspect your flooring at every stage: before it’s finished, during
24 production, and as it’s shipped. Our Quality Assurance team operates on three continents,
25 seven countries, and in mills around the world. In fact, on a typical day, a production inspector
will walk 12 miles up and down the finishing line **to ensure you get only the best.**”

26 **2) COMPLIANCE** - We not only comply with laws- we exceed them. For example, California
27 has the highest standards regarding laminate and engineered flooring. All of our mills that
28

1 produce these products are certified by a Third Party approved by the State of California- and
2 we apply these standards nationwide.

3 **3) TESTING** - We are continually investing in, testing, evaluating and assuring the highest
4 quality. Our Quality Assurance team includes certified Six Sigma professionals with Master’s
5 Degrees in Quality Management and various team members with degrees in Biology,
6 Chemistry, Wood Science and Engineering. They work around the world to test your flooring
7 at every stage. We also regularly send product out to an independent lab for additional testing
8 to ensure quality.” (www.lumberliquidators.com/ll/flooring/Quality)

9 65. Instead of warning the public about formaldehyde in its PRODUCTS, Lumber
10 Liquidators has engaged in a campaign to minimize the risks of formaldehyde – directly undermining
11 the purposes of Proposition 65. Lumber Liquidators’ website states that formaldehyde, “exists
12 naturally in the environment, our bodies, and in food and is important in the human metabolic process.
13 It is a central building block in the synthesis of many other compounds.” The website states further:

14 **“Formaldehyde – What Is It?”**

15 Formaldehyde is a simple compound made of carbon, hydrogen and oxygen, and is a colorless,
16 strong-smelling gas. It exists naturally in the environment, our bodies, and in food and is
17 important in the human metabolic process. It is a central building block in the synthesis of
18 many other compounds. Man-made formaldehyde is an important chemical used widely by
19 industry to manufacture building materials and numerous household products. Thus, it may be
20 present in substantial concentrations both indoors and outdoors.

21 ([http://server.iad.liveperson.net/hc/s-13045352/cmd/kbresource/kb-
22 7043017384918728504/view_question!PAGETYPE?sf=101133&documentid=415037&action
23 =view](http://server.iad.liveperson.net/hc/s-13045352/cmd/kbresource/kb-7043017384918728504/view_question!PAGETYPE?sf=101133&documentid=415037&action=view))

24 66. As a result of these public statements and particularly through its use of bold font,
25 Plaintiffs believe that Lumber Liquidators, rather than providing the warning required by Proposition
26 65, instead intentionally tries to make consumers believe that the PRODUCTS they are purchasing are
27 compliant with California’s standards for formaldehyde emissions and downplay the toxicity of
28 formaldehyde acknowledged by its inclusion on the Proposition 65 list of substances that cause cancer.

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1 **FIRST CAUSE OF ACTION**

2 **Injunctive Relief for Violations of Health and Safety Code § 25249.5, et seq.**

3 **(By Plaintiffs Global Community Monitor and Sunshine Park Against all Defendants)**

4 67. Plaintiffs reallege and incorporate by reference all of the above paragraphs as if
5 specifically set forth herein.

6 68. Each Defendant is a person in the course of doing business within the meaning of
7 Health & Safety Code § 25249.11.

8 69. The use and/or handling of the PRODUCTS causes exposures to the LISTED
9 CHEMICAL at levels requiring a “clear and reasonable warning” under California’s Safe Drinking
10 Water and Toxic Enforcement Act of 1986, Health & Safety Code §25249.5, et seq. (also known as
11 “Proposition 65”).

12 70. Defendants have failed to provide the health hazard warnings required by Proposition
13 65.

14 71. The California Office of Environmental Health Hazard Assessment (“OEHHA”) has
15 established “safe harbor” levels below which warnings are generally not required.
16 (<http://www.oehha.ca.gov/prop65/pdf/safeharbor081513.pdf>). The safe harbor level for formaldehyde
17 is 40 µg/day.

18 72. Defendants knowingly and intentionally exposed individuals to the PRODUCTS which
19 contain formaldehyde without first providing a clear and reasonable warning.

20 73. By committing the acts alleged in this Complaint, Defendants at all times relevant to this
21 action, and continuing through the present, have violated H&S Code §25249.6 by, in the course of
22 doing business, knowingly and intentionally exposing individuals who use or handle the PRODUCTS
23 set forth in the Notice to the LISTED CHEMICAL, without first providing a clear and reasonable
24 warning to such individuals pursuant to H&S Code §§ 25249.6 and 25249.11(f).

25 74. By the above-described acts, Defendants have violated H&S Code § 25249.6 and are
26 therefore subject to an injunction ordering Defendants to stop violating Proposition 65, to provide
27 warnings to all present and future customers, and to provide warnings to Defendants’ past customers

1 who purchased or used the PRODUCTS without receiving a clear and reasonable warning.

2 75. An action for injunctive relief under Proposition 65 is specifically authorized by Health
3 & Safety Code §25249.7(a).

4 76. Continuing commission by Defendants of the acts alleged above will irreparably harm the
5 citizens of the State of California, for which harm they have no plain, speedy, or adequate remedy at
6 law. In the absence of injunctive relief, Defendants will continue to create a substantial risk of
7 irreparable injury by continuing to cause consumers to be involuntarily and unwittingly exposed to the
8 LISTED CHEMICAL through the use and/or handling of the PRODUCTS.

9 **SECOND CAUSE OF ACTION**

10 **Civil Penalties for Violations of Health and Safety Code § 25249.5, et seq.**

11 **(By Plaintiffs Global Community Monitor and Sunshine Park Against all Defendants)**

12 77. Plaintiffs reallege and incorporate by reference all of the above paragraphs, as if
13 specifically set forth herein.

14 78. By committing the acts alleged in this Complaint, Defendants at all times relevant to this
15 action, and continuing through the present, have violated H&S Code §25249.6 by, in the course of doing
16 business, knowingly and intentionally exposing individuals who use or handle the PRODUCTS set forth
17 in the Notice to the LISTED CHEMICAL, without first providing a clear and reasonable warning to
18 such individuals pursuant to H&S Code §§ 25249.6 and 25249.11(f).

19 79. By the above-described acts, Defendants are liable, pursuant to H&S Code §25249.7(b),
20 for a civil penalty of up to \$2,500 per day per violation for each unlawful exposure to the LISTED
21 CHEMICAL from the PRODUCTS, which Plaintiffs are informed and believe is a maximum penalty in
22 excess of \$50 billion.

23 **PRAYER FOR RELIEF**

24 Wherefore, Plaintiffs accordingly pray for the following relief:

25 A. a preliminary and permanent injunction, pursuant to H&S Code §25249.7(b), enjoining
26 Defendants, their agents, employees, assigns and all persons acting in concert or participating with
27 Defendants, from offering the PRODUCTS for sale in California without either reformulating the

1 PRODUCTS such that no Proposition 65 warning is necessary or providing a clear and reasonable
2 warning, within the meaning of Proposition 65, that the users and/or handlers of the PRODUCTS are
3 exposed to the LISTED CHEMICAL;

4 B. an injunctive order, pursuant to H&S Code §25249.7(b), compelling Defendants to
5 identify and locate each individual who has purchased the PRODUCTS since April 11, 2011, and to
6 provide a warning to such person that the use of the PRODUCTS will expose the user to chemicals
7 known to cause cancer;

8 C. an injunctive order compelling Defendants to waive any applicable restocking fees
9 which would otherwise be charged to an individual who seeks to return the PRODUCTS after
10 receiving a clear and reasonable Proposition 65 warning;

11 D. an assessment of civil penalties pursuant to Health & Safety Code §25249.7(b), against
12 Defendants in the amount of \$2,500 per day for each violation of Proposition 65;

13 E. an award to Plaintiffs of their reasonable attorney's fees and costs of suit pursuant to
14 California Code of Civil Procedure §1021.5 or any other applicable provision(s) of law, as Plaintiffs
15 shall specify in further application to the Court; and,

16 F. any and all such other and further relief as may be just and proper.

17 DATED: July 23, 2014

LOZEAU DRURY LLP

18
19 

20 Richard Drury
21 Michael R. Lozeau
22 Attorneys for Plaintiffs
23
24
25
26
27
28

EXHIBIT A



T 510.836.4200
F 510.836.4205

410 12th Street, Suite 250
Oakland, Ca 94607

www.lozeaudrury.com
richard@lozeaudrury.com

April 11, 2014

VIA CERTIFIED MAIL

Current CEO or President
Lumber Liquidators, Inc.
3000 John Deere Road
Toana, VA 23168

Corporation Service Company
dba CSC - Lawyers Incorporating Service
2710 Gateway Oaks Dr., Suite 150N
Sacramento, CA 95833
(Lumber Liquidators, Inc.'s
Registered Agent for Service of Process)

Current CEO or President
Lumber Liquidators Holdings, Inc.
3000 John Deere Road
Toano, VA 23168

Corporation Service Company
dba CSC - Lawyers Incorporating Service
2711 Centerville Road, Suite 400,
Wilmington, DE 19808
(Lumber Liquidators Holdings, Inc.'s
Registered Agent for Service of Process in
Delaware)

Office of the California Attorney General
Prop 65 Enforcement Reporting
1515 Clay Street, Suite 2000
P.O. Box 70550
Oakland, CA 94612-0550

VIA PRIORITY MAIL

District Attorneys of All California Counties
and Select City Attorneys
(See Attached Certificate of Service)

Re: Notice of Violations of California Health & Safety Code Section 25249.5 *et seq.*

Dear Addressees:

I represent the Global Community Monitor ("GCM") and Sunshine Park LLC ("SP") in connection with this Notice of Violations of California's Safe Drinking Water and Toxic Enforcement Act of 1986, which is codified at California Health & Safety Code Section 25249.5 *et seq.* and also referred to as Proposition 65.

GCM is a California non-profit corporation, founded in 2001, that trains and supports communities in the use of environmental monitoring tools to understand the impact of air and water pollution on their health and the environment, and to take legal and community-based action to reduce that pollution.

SP is a California limited liability company established, among other things, to promote awareness of exposures to toxic chemicals in certain products sold in California and, if possible,

to improve public health and safety by reducing the hazardous substances contained in such items.

The name of the companies covered by this notice that violated Proposition 65 (hereinafter “the Violators”) are:

Lumber Liquidators, Inc.
Lumber Liquidators Holdings, Inc.

The products that are the subject of this notice and the chemicals in those products identified as exceeding allowable levels are:

Product	Chemical
8 mm Bristol County Cherry Laminate Flooring	Formaldehyde (gas)
8 mm Dream Home Nirvana French Oak Laminate Flooring	Formaldehyde (gas)
12 mm Dream Home Kensington Manner Antique Bamboo Laminate Flooring	Formaldehyde (gas)
12 mm Dream Home St. James Oceanside Plank Bamboo Laminate Flooring	Formaldehyde (gas)
12 mm Dream Home Kensington Manner Warm Springs Chestnut Laminate Flooring	Formaldehyde (gas)
15 mm Dream Home St. James Sky Lakes Pine Laminate Flooring	Formaldehyde (gas)
12 mm Dream Home Ispiri Chimney Tops Smoked Oak Laminate Flooring	Formaldehyde (gas)
12 mm Dream Home Kensington Manner Imperial Teak Laminate Flooring	Formaldehyde (gas)
12 mm Dream Home St. James Vintner’s Reserve Laminate Flooring	Formaldehyde (gas)
12 mm Dream Home Kensington Manor Cape Doctor Laminate Flooring	Formaldehyde (gas)
12 mm Dream Home St. James Cumberland Mountain Oak	Formaldehyde (gas)

On January 1, 1988, the State of California officially listed Formaldehyde (gas) as a chemical known to cause cancer.

This letter is a notice to each of the Violators and the appropriate governmental authorities of the Proposition 65 violations concerning the listed products. This notice covers all violations of Proposition 65 involving the Violators currently known to GCM and SP from the information now available. GCM and SP may continue to investigate other products that may reveal further violations. A summary of Proposition 65, prepared by the Office of Environmental Health Hazard Assessment, is attached to this letter sent to each of the Violators.

Each of the Violators has manufactured, marketed, distributed, and/or sold the listed products, which have exposed and continue to expose numerous individuals within California to the identified chemicals. The consumer exposures that are the subject of this notice result from

Notice of Violations of California Health & Safety Code §25249.5 *et seq.*

April 11, 2014

Page 3

the purchase, acquisition, handling and/or recommended use of these products by consumers. The primary route of exposure to these chemicals has been through inhalation. Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to the identified chemicals. The method of warning should be a warning that appears on the product's label. Each of the Violators violated Proposition 65 because they failed to provide an appropriate warning to persons using and/or handling these products that they are being exposed to the identified chemicals. Each of these ongoing violations has occurred on every day since April 11, 2011, as well as every day since the products were introduced in the California marketplace, and will continue every day until clear and reasonable warnings are provided to product purchasers and users.

Pursuant to Section 25249.7(d) of the statute, GCM and SP intend to file a citizen enforcement action sixty days after effective service of this notice unless each of the Violators agrees in an enforceable written instrument to: (1) provide legally sufficient warnings to past, current, and future purchasers of the products; (2) where requested by previous purchasers, fund the removal and replacement of flooring sold without the requisite warning; (3) reformulate the listed products so as to eliminate further exposures to the identified chemicals; and (4) pay an appropriate civil penalty. Consistent with the public interest goals of Proposition 65 and my clients' objectives in pursuing this notice, GCM and SP are interested in seeking a constructive resolution to this matter. Such resolution will avoid both further unwarned consumer exposures to the identified chemicals and expensive and time consuming litigation.

GCM's address is P.O. Box 1784, El Cerrito, CA 94530. Denny Larson is the responsible individual for GCM in regard to this matter and he can be telephoned at (510) 233-1870. SP's address is 2019 Century Park E, Suite 2400, Los Angeles, California, 90067. I, Richard Drury, am the responsible individual for SP in regard to this matter and I can be telephoned at (510) 836-4200. GCM and SP have retained Lozeau Drury LLP in connection with this matter. Please also direct all communications regarding this Notice of Violations to my attention at the above listed law office address and telephone number.

Sincerely,



Richard Drury
Lozeau Drury LLP on behalf of the Global
Community Monitor and Sunshine Park
LLC

Attachments

Certificate of Merit

Certificate of Service

OEHHA Proposition 65 Summary

Additional Supporting Information for Certificate of Merit (to AG only)

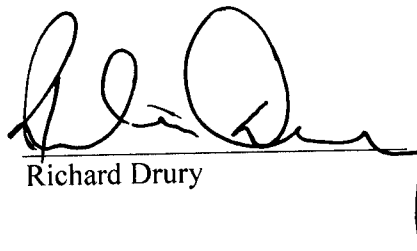
CERTIFICATE OF MERIT

Re: Global Community Monitor and Sunshine Park LLC's Notice of Proposition 65 Violations by Lumber Liquidators, Inc. and Lumber Liquidators Holdings, Inc.

I, Richard Drury, declare:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged the party identified in the notice violated California Health & Safety Code Section 25249.6 by failing to provide clear and reasonable warnings.
2. I am an attorney for the noticing parties.
3. I have consulted with one or more persons with relevant and appropriate experience or expertise who have reviewed facts, studies, or other data regarding the exposure to the listed chemical that is the subject of the notice.
4. Based on the information obtained through those consultants, and on other information in my possession, I believe there is a reasonable and meritorious case for the private action. I understand that "reasonable and meritorious case for the private action" means that the information provides a credible basis that all elements of the plaintiffs' case can be established and that the information did not prove that the alleged violators will be able to establish any of the affirmative defenses set forth in the statute.
5. Along with the copy of this Certificate of Merit served on the Attorney General is attached additional factual information sufficient to establish the basis for this certificate, including the information identified in California Health & Safety Code §25249.7(h)(2), i.e., (1) the identity of the persons consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.

Dated: April 11, 2014


Richard Drury

THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY

The following summary has been prepared by the Office of Environmental Health Hazard Assessment, the lead agency for the implementation of the Safe Drinking Water and Toxic Enforcement Act of 1986 (commonly known as "Proposition 65"). A copy of this summary must be included as an attachment to any notice of violation served upon an alleged violator of the Act. The summary provides basic information about the provisions of the law, and is intended to serve only as a convenient source of general information. It is not intended to provide authoritative guidance on the meaning or application of the law. The reader is directed to the statute and its implementing regulations (see citations below) for further information. Proposition 65 appears in California law as Health and Safety Code Sections 25249.5 through 25249.13. Regulations that provide more specific guidance on compliance, and that specify procedures to be followed by the State in carrying out certain aspects of the law, are found in Title 22 of the California Code of Regulations, Sections 12000 through 14000.

WHAT DOES PROPOSITION 65 REQUIRE?

The "Governor's List." Proposition 65 requires the Governor to publish a list of chemicals that are known to the State of California to cause cancer, or birth defects or other reproductive harm. This list must be updated at least once a year. Over 550 chemicals have been listed as of May 1, 1996. Only those chemicals that are on the list are regulated under this law. Businesses that produce, use, release or otherwise engage in activities involving those chemicals must comply with the following:

- Clear and reasonable warnings. A business is required to warn a person before "knowingly and intentionally" exposing that person to a listed chemical. The warning given must be "clear and reasonable." This means that the warning must: (1) clearly make known that the chemical involved is known to cause cancer, or birth defects or other reproductive harm; and (2) be given in such a way that it will effectively reach the person before he or she is exposed. Exposures are exempt from the warning requirement if they occur less than twelve months after the date of listing of the chemical.
- Prohibition from discharges into drinking water. A business must not knowingly discharge or release a listed chemical into water or onto land where it passes or probably will pass into a source of drinking water. Discharges are exempt from this requirement if they occur less than twenty months after the date of listing of the chemical.

DOES PROPOSITION 65 PROVIDE ANY EXEMPTIONS?

Yes. The law exempts:

Governmental agencies and public water utilities. All agencies of the federal, State or local government, as well as entities operating public water systems, are exempt.

Businesses with nine or fewer employees. Neither the warning requirement nor the discharge prohibition applies to a business that employs a total of nine or fewer employees.

Exposures that pose no significant risk of cancer. For chemicals that are listed as known to the State to cause cancer ("carcinogens"), a warning is not required if the business can demonstrate that the exposure occurs at a level that poses "no significant risk." This means that the exposure is calculated to result in not more than one excess case of cancer in 100,000 individuals exposed over a 70-year lifetime. The Proposition 65 regulations identify specific "no significant risk" levels for more than 250 listed carcinogens. Exposures that will produce no observable reproductive effect at 1,000 times the level in question. For chemicals known to the State to cause birth defects or other reproductive harm ("reproductive toxicants"), a warning is not required if the business can demonstrate that the exposure will produce no observable effect, even at 1,000 times the level in question. In other words,

the level of exposure must be below the "no observable effect level (NOEL)," divided by a 1,000-fold safety or uncertainty factor. The "no observable effect level" is the highest dose level which has not been associated with an observable adverse reproductive or developmental effect. Discharges that do not result in a "significant amount" of the listed chemical entering into any source of drinking water. The prohibition from discharges into drinking water does not apply if the discharger is able to demonstrate that a "significant amount" of the listed chemical has not, does not, or will not enter any drinking water source, and that the discharge complies with all other applicable laws, regulations, permits, requirements, or orders. A "significant amount" means any detectable amount, except an amount that would meet the "no significant risk" or "no observable effect" test if an individual were exposed to such an amount in drinking water.

HOW IS PROPOSITION 65 ENFORCED?

Enforcement is carried out through civil lawsuits. These lawsuits may be brought by the Attorney General, any district attorney, or certain city attorneys (those in cities with a population exceeding 750,000). Lawsuits may also be brought by private parties acting in the public interest, but only after providing notice of the alleged violation to the Attorney General, the appropriate district attorney and city attorney, and the business accused of the violation. The notice must provide adequate information to allow the recipient to assess the nature of the alleged violation. A notice must comply with the information and procedural requirements specified in regulations (Title 22, California Code of Regulations, Section 12903). A private party may not pursue an enforcement action directly under Proposition 65 if one of the governmental officials noted above initiates an action within sixty days of the notice. A business found to be in violation of Proposition 65 is subject to civil penalties of up to \$2,500 per day for each violation. In addition, the business may be ordered by a court of law to stop committing the violation.

FOR FURTHER INFORMATION...

Contact the Office of Environmental Health Hazard Assessment's Proposition 65 Implementation Office at (916) 445-6900.

CERTIFICATE OF SERVICE

I, the undersigned, declare under penalty of perjury under the laws of the State of California that the following is true and correct:

I am a citizen of the United States, over the age of 18 years of age, and am not a party to the within entitled action. My business address is 410 12th Street, Suite 250, Oakland, California 94607. I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at Oakland, California.

On April 11, 2014, I served the following documents: **NOTICE OF VIOLATIONS OF CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT; “THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY”** on the following parties by placing a true and correct copy thereof in a sealed envelope, addressed to the party listed below and depositing it in a US Postal Service Office with the postage fully prepaid for delivery by First Class, Certified Mail:

Current CEO or President
Lumber Liquidators, Inc.
3000 John Deere Road
Toana, VA 23168

Current CEO or President
Lumber Liquidators Holdings, Inc.
3000 John Deere Road
Toano, VA 23168

Corporation Service Company
dba CSC - Lawyers Incorporating Service
2710 Gateway Oaks Dr., Suite 150N
Sacramento, CA 95833
(Lumber Liquidators, Inc.’s
Registered Agent for Service of Process)

Corporation Service Company
2711 Centerville Road, Suite 400
Wilmington, DE 19808
(Lumber Liquidators Holdings, Inc.’s
Registered Agent for Service of Process in
Delaware)


On April 11, 2014, I served the following documents: **NOTICE OF VIOLATION, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT; ADDITIONAL SUPPORTING INFORMATION FOR CERTIFICATE OF MERIT AS REQUIRED BY CALIFORNIA HEALTH & SAFETY CODE §25249.7(d)(1)** on the following parties by placing a true and correct copy thereof in a sealed envelope, addressed to the party listed below and depositing it in a US Postal Service Office with the postage fully prepaid for delivery by First Class, Certified Mail:

Office of the California Attorney General
Prop 65 Enforcement Reporting
1515 Clay Street, Suite 2000
Post Office Box 70550
Oakland, CA 94612-0550

On April 11, 2014, I served the following documents: **NOTICE OF VIOLATION, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF**

MERIT on each of the parties on the Service List attached hereto by placing a true and correct copy thereof in a sealed envelope, addressed to each of the parties **on the Service List attached hereto**, and depositing it with the U.S. Postal Service with the postage fully prepaid for delivery by First Class Mail.

Executed on April 11, 2014, in Oakland, California.



Toyer Grear

Notice of Violations of California Health & Safety Code §25249.5 *et seq.*

Service List

District Attorney, Alameda County 1225 Fallon Street, Room 900 Oakland, CA 94612	District Attorney, Los Angeles County 210 West Temple Street, Suite 18000 Los Angeles, CA 90012	District Attorney, San Diego County 330 West Broadway, Room 1300 San Diego, CA 92101	District Attorney, Tuolumne County 423 N. Washington Street Sonora, CA 95370
District Attorney, Alpine County P.O. Box 248 Markleeville, CA 96120	District Attorney, Madera County 209 West Yosemite Avenue Madera, CA 93637	District Attorney, San Francisco County 850 Bryant Street, Room 322 San Francisco, CA 94103	District Attorney, Ventura County 800 South Victoria Avenue Ventura, CA 93009
District Attorney, Amador County 708 Court Street, #202 Jackson, CA 95642	District Attorney, Marin County 3501 Civic Center Drive, Room 130 San Rafael, CA 94903	District Attorney, San Joaquin County Post Office Box 990 Stockton, CA 95201	District Attorney, Yolo County 301 2 nd Street Woodland, CA 95695
District Attorney, Butte County 25 County Center Drive Oroville, CA 95965	District Attorney, Mariposa County Post Office Box 730 Mariposa, CA 95338	District Attorney, San Luis Obispo County 1035 Palm St, Room 450 San Luis Obispo, CA 93408	District Attorney, Yuba County 215 Fifth Street, Suite 152 Marysville, CA 95901
District Attorney, Calaveras County 891 Mountain Ranch Road San Andreas, CA 95249	District Attorney, Mendocino County Post Office Box 1000 Ukiah, CA 95482	District Attorney, San Mateo County 400 County Ctr., 3 rd Floor Redwood City, CA 94063	Los Angeles City Attorney's Office City Hall East 200 N. Main Street, Rm 800 Los Angeles, CA 90012
District Attorney, Colusa County 547 Market Street Colusa, CA 95932	District Attorney, Merced County 2222 M Street Merced, CA 95340	District Attorney, Santa Barbara County 1112 Santa Barbara Street Santa Barbara, CA 93101	San Diego City Attorney's Office 1200 3rd Avenue, Ste 1620 San Diego, CA 92101
District Attorney, Contra Costa County 900 Ward Street Martinez, CA 94553	District Attorney, Modoc County 204 S Court Street, Room 202 Alturas, CA 96101-4020	District Attorney, Santa Clara County 70 West Hedding Street San Jose, CA 95110	San Francisco City Attorney's Office City Hall, Room 234 1 Drive Carlton B Goodlett Place San Francisco, CA 94102
District Attorney, Del Norte County 450 H Street, Ste. 171 Crescent City, CA 95531	District Attorney, Mono County Post Office Box 617 Bridgeport, CA 93517	District Attorney, Santa Cruz County 701 Ocean Street, Room 200 Santa Cruz, CA 95060	San Jose City Attorney's Office 200 East Santa Clara Street, 16 th Floor San Jose, CA 95113
District Attorney, El Dorado County 515 Main Street Placerville, CA 95667	District Attorney, Monterey County Post Office Box 1131 Salinas, CA 93902	District Attorney, Shasta County 1355 West Street Redding, CA 96001	
District Attorney, Fresno County 2220 Tulare Street, #1000 Fresno, CA 93721	District Attorney, Napa County 931 Parkway Mall Napa, CA 94559	District Attorney, Sierra County PO Box 457 Downieville, CA 95936	
District Attorney, Glenn County Post Office Box 430 Willows, CA 95988	District Attorney, Nevada County 110 Union Street Nevada City, CA 95959	District Attorney, Siskiyou County Post Office Box 986 Yreka, CA 96097	
District Attorney, Humboldt County 825 5th Street Eureka, CA 95501	District Attorney, Orange County 401 Civic Center Drive West Santa Ana, CA 92701	District Attorney, Solano County 675 Texas Street, Ste 4500 Fairfield, CA 94533	
District Attorney, Imperial County 940 West Main Street, Ste 102 El Centro, CA 92243	District Attorney, Placer County 10810 Justice Center Drive, Ste 240 Roseville, CA 95678	District Attorney, Sonoma County 600 Administration Drive, Room 212J Santa Rosa, CA 95403	
District Attorney, Inyo County 230 W. Line Street Bishop, CA 93514	District Attorney, Plumas County 520 Main Street, Room 404 Quincy, CA 95971	District Attorney, Stanislaus County 832 12 th Street, Ste 300 Modesto, CA 95353	
District Attorney, Kern County 1215 Truxtun Avenue Bakersfield, CA 93301	District Attorney, Riverside County 3960 Orange Street Riverside, CA 92501	District Attorney, Sutter County 446 Second Street Yuba City, CA 95991	
District Attorney, Kings County 1400 West Lacey Boulevard Hanford, CA 93230	District Attorney, Sacramento County 901 "G" Street Sacramento, CA 95814	District Attorney, Tehama County Post Office Box 519 Red Bluff, CA 96080	
District Attorney, Lake County 255 N. Forbes Street Lakeport, CA 95453	District Attorney, San Benito County 419 Fourth Street, 2 nd Floor Hollister, CA 95023	District Attorney, Trinity County Post Office Box 310 Weaverville, CA 96093	
District Attorney, Lassen County 220 South Lassen Street, Ste. 8 Susanville, CA 96130	District Attorney, San Bernardino County 316 N. Mountain View Avenue San Bernardino, CA 92415-0004	District Attorney, Tulare County 221 S. Mooney Avenue, Room 224 Visalia, CA 93291	

EXHIBIT B



T 510.836.4200
F 510.836.4205

410 12th Street, Suite 250
Oakland, Ca 94607

www.lozeaudrury.com
richard@lozeaudrury.com

April 11, 2014

VIA CERTIFIED MAIL

Current CEO or President
Lumber Liquidators, Inc.
3000 John Deere Road
Toana, VA 23168

Corporation Service Company
dba CSC - Lawyers Incorporating Service
2710 Gateway Oaks Dr., Suite 150N
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1515 Clay Street, Suite 2000
P.O. Box 70550
Oakland, CA 94612-0550

VIA PRIORITY MAIL

District Attorneys of All California Counties
and Select City Attorneys
(See Attached Certificate of Service)

Re: Notice of Violations of California Health & Safety Code Section 25249.5 *et seq.*

Dear Addressees:

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to improve public health and safety by reducing the hazardous substances contained in such items.

The name of the companies covered by this notice that violated Proposition 65 (hereinafter “the Violators”) are:

Lumber Liquidators, Inc.
Lumber Liquidators Holdings, Inc.

The products that are the subject of this notice and the chemicals in those products identified as exceeding allowable levels are:

Product	Chemical
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This letter is a notice to each of the Violators and the appropriate governmental authorities of the Proposition 65 violations concerning the listed products. This notice covers all violations of Proposition 65 involving the Violators currently known to GCM and SP from the information now available. GCM and SP may continue to investigate other products that may reveal further violations. A summary of Proposition 65, prepared by the Office of Environmental Health Hazard Assessment, is attached to this letter sent to each of the Violators.

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Notice of Violations of California Health & Safety Code §25249.5 *et seq.*

April 11, 2014

Page 3

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Pursuant to Section 25249.7(d) of the statute, GCM and SP intend to file a citizen enforcement action sixty days after effective service of this notice unless each of the Violators agrees in an enforceable written instrument to: (1) provide legally sufficient warnings to past, current, and future purchasers of the products; (2) where requested by previous purchasers, fund the removal and replacement of flooring sold without the requisite warning; (3) reformulate the listed products so as to eliminate further exposures to the identified chemicals; and (4) pay an appropriate civil penalty. Consistent with the public interest goals of Proposition 65 and my clients' objectives in pursuing this notice, GCM and SP are interested in seeking a constructive resolution to this matter. Such resolution will avoid both further unwarned consumer exposures to the identified chemicals and expensive and time consuming litigation.

GCM's address is P.O. Box 1784, El Cerrito, CA 94530. Denny Larson is the responsible individual for GCM in regard to this matter and he can be telephoned at (510) 233-1870. SP's address is 2019 Century Park E, Suite 2400, Los Angeles, California, 90067. I, Richard Drury, am the responsible individual for SP in regard to this matter and I can be telephoned at (510) 836-4200. GCM and SP have retained Lozeau Drury LLP in connection with this matter. Please also direct all communications regarding this Notice of Violations to my attention at the above listed law office address and telephone number.

Sincerely,



Richard Drury
Lozeau Drury LLP on behalf of the Global
Community Monitor and Sunshine Park
LLC

Attachments

Certificate of Merit

Certificate of Service

OEHHA Proposition 65 Summary

Additional Supporting Information for Certificate of Merit (to AG only)

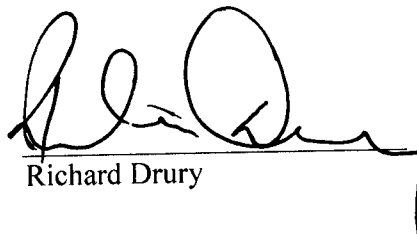
CERTIFICATE OF MERIT

**Re: Global Community Monitor and Sunshine Park LLC's Notice of Proposition
65 Violations by Lumber Liquidators, Inc. and Lumber Liquidators
Holdings, Inc.**

I, Richard Drury, declare:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged the party identified in the notice violated California Health & Safety Code Section 25249.6 by failing to provide clear and reasonable warnings.
2. I am an attorney for the noticing parties.
3. I have consulted with one or more persons with relevant and appropriate experience or expertise who have reviewed facts, studies, or other data regarding the exposure to the listed chemical that is the subject of the notice.
4. Based on the information obtained through those consultants, and on other information in my possession, I believe there is a reasonable and meritorious case for the private action. I understand that "reasonable and meritorious case for the private action" means that the information provides a credible basis that all elements of the plaintiffs' case can be established and that the information did not prove that the alleged violators will be able to establish any of the affirmative defenses set forth in the statute.
5. Along with the copy of this Certificate of Merit served on the Attorney General is attached additional factual information sufficient to establish the basis for this certificate, including the information identified in California Health & Safety Code §25249.7(h)(2), i.e., (1) the identity of the persons consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.

Dated: April 11, 2014


Richard Drury

APPENDIX A

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY

The following summary has been prepared by the California Office of Environmental Health Hazard Assessment (OEHHA), the lead agency for the implementation of the Safe Drinking Water and Toxic Enforcement Act of 1986 (commonly known as “Proposition 65”). A copy of this summary must be included as an attachment to any notice of violation served upon an alleged violator of the Act. The summary provides basic information about the provisions of the law, and is intended to serve only as a convenient source of general information. It is not intended to provide authoritative guidance on the meaning or application of the law. The reader is directed to the statute and OEHHA’s implementing regulations (see citations below) for further information.

FOR INFORMATION CONCERNING THE BASIS FOR THE ALLEGATIONS IN THE NOTICE RELATED TO YOUR BUSINESS, CONTACT THE PERSON IDENTIFIED ON THE NOTICE.

Proposition 65 appears in California law as Health and Safety Code Sections 25249.5 through 25249.13. The statute is available online at: <http://oehha.ca.gov/prop65/law/P65law72003.html>. Regulations that provide more specific guidance on compliance, and that specify procedures to be followed by the State in carrying out certain aspects of the law, are found in Title 27 of the California Code of Regulations, sections 25102 through 27001.¹ These implementing regulations are available online at: <http://oehha.ca.gov/prop65/law/P65Regs.html>.

WHAT DOES PROPOSITION 65 REQUIRE?

The “Governor’s List.” Proposition 65 requires the Governor to publish a list of chemicals that are known to the State of California to cause cancer and/or reproductive toxicity. This means that chemicals are placed on the Proposition 65 list if they are known to cause cancer and/or birth defects or other reproductive harm, such as damage to female or male reproductive systems or to the developing fetus. This list

¹ All further regulatory references are to sections of Title 27 of the California Code of Regulations unless otherwise indicated. The statute, regulations and relevant case law are available on the OEHHA website at: <http://www.oehha.ca.gov/prop65/law/index.html>.

must be updated at least once a year. The current Proposition 65 list of chemicals is available on the OEHHA website at:

http://www.oehha.ca.gov/prop65/prop65_list/Newlist.html.

Only those chemicals that are on the list are regulated under this law. Businesses that produce, use, release or otherwise engage in activities involving listed chemicals must comply with the following:

Clear and reasonable warnings. A business is required to warn a person before “knowingly and intentionally” exposing that person to a listed chemical unless an exemption applies; for example, when exposures are sufficiently low (see below). The warning given must be “clear and reasonable.” This means that the warning must: (1) clearly make known that the chemical involved is known to cause cancer, or birth defects or other reproductive harm and (2) be given in such a way that it will effectively reach the person before he or she is exposed. Some exposures are exempt from the warning requirement under certain circumstances discussed below.

Prohibition from discharges into drinking water. A business must not knowingly discharge or release a listed chemical into water or onto land where it passes or probably will pass into a source of drinking water. Some discharges are exempt from this requirement under certain circumstances discussed below.

DOES PROPOSITION 65 PROVIDE ANY EXEMPTIONS?

Yes. You should consult the current version of the statute and regulations (<http://www.oehha.ca.gov/prop65/law/index.html>) to determine all applicable exemptions, the most common of which are the following:

Grace Period. Proposition 65 warning requirements do not apply until 12 months after the chemical has been listed. The Proposition 65 discharge prohibition does not apply to a discharge or release of a chemical that takes place less than 20 months after the listing of the chemical.

Governmental agencies and public water utilities. All agencies of the federal, state or local government, as well as entities operating public water systems, are exempt.

Businesses with nine or fewer employees. Neither the warning requirement nor the discharge prohibition applies to a business that employs a total of nine or fewer employees. This includes all employees, not just those present in California.

Exposures that pose no significant risk of cancer. For chemicals that are listed as known to the State to cause cancer (“carcinogens”), a warning is not required if the business can demonstrate that the exposure occurs at a level that poses “no significant risk.” This means that the exposure is calculated to result in not more than one excess case of cancer in 100,000 individuals exposed over a 70-year lifetime. The Proposition 65 regulations identify specific “No Significant Risk Levels” (NSRLs) for many listed carcinogens. Exposures below these levels are exempt from the warning requirement. See OEHHA’s website at: <http://www.oehha.ca.gov/prop65/getNSRLs.html> for a list of NSRLs, and Section 25701 *et seq.* of the regulations for information concerning how these levels are calculated.

Exposures that will produce no observable reproductive effect at 1,000 times the level in question. For chemicals known to the State to cause reproductive toxicity, a warning is not required if the business can demonstrate that the exposure will produce no observable effect, even at 1,000 times the level in question. In other words, the level of exposure must be below the “no observable effect level” divided by a 1,000. This number is known as the Maximum Allowable Dose Level (MADL). See OEHHA’s website at: <http://www.oehha.ca.gov/prop65/getNSRLs.html> for a list of MADLs, and Section 25801 *et seq.* of the regulations for information concerning how these levels are calculated.

Exposures to Naturally Occurring Chemicals in a Food. Certain exposures to chemicals that occur in foods naturally (i.e., that do not result from any known human activity, including activity by someone other than the person causing the exposure) are exempt from the warning requirements of the law. If the chemical is a contaminant² it must be reduced to the lowest level feasible. Regulations explaining this exemption can be found in Section 25501.

Discharges that do not result in a “significant amount” of the listed chemical entering into any source of drinking water. The prohibition from discharges into drinking water does not apply if the discharger is able to demonstrate that a “significant amount” of the listed chemical has not, does not, or will not pass into or probably pass into a source of drinking water, and that the discharge complies with all other applicable laws, regulations, permits, requirements, or orders. A “significant amount” means any detectable amount, except an amount that would meet the “no significant risk” level for chemicals that cause cancer or that is 1,000 times below the “no observable effect” level for chemicals that cause reproductive toxicity, if an individual were exposed to that amount in drinking water.

² See Section 25501(a)(4)

HOW IS PROPOSITION 65 ENFORCED?

Enforcement is carried out through civil lawsuits. These lawsuits may be brought by the Attorney General, any district attorney, or certain city attorneys. Lawsuits may also be brought by private parties acting in the public interest, but only after providing notice of the alleged violation to the Attorney General, the appropriate district attorney and city attorney, and the business accused of the violation. The notice must provide adequate information to allow the recipient to assess the nature of the alleged violation. The notice must comply with the information and procedural requirements specified in Section 25903 of the regulations and in Title 11, sections 3100-3103. A private party may not pursue an independent enforcement action under Proposition 65 if one of the governmental officials noted above initiates an action within sixty days of the notice.

A business found to be in violation of Proposition 65 is subject to civil penalties of up to \$2,500 per day for each violation. In addition, the business may be ordered by a court to stop committing the violation.

FOR FURTHER INFORMATION ABOUT THE LAW OR REGULATIONS...

Contact the Office of Environmental Health Hazard Assessment's Proposition 65 Implementation Office at (916) 445-6900 or via e-mail at P65Public.Comments@oehha.ca.gov.

Revised: July, 2012

NOTE: Authority cited: Section 25249.12, Health and Safety Code. Reference: Sections 25249.5, 25249.6, 25249.9, 25249.10 and 25249.11, Health and Safety Code.

CERTIFICATE OF SERVICE

I, the undersigned, declare under penalty of perjury under the laws of the State of California that the following is true and correct:

I am a citizen of the United States, over the age of 18 years of age, and am not a party to the within entitled action. My business address is 410 12th Street, Suite 250, Oakland, California 94607. I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at Oakland, California.

On April 21, 2014, I served the following documents: **NOTICE OF VIOLATIONS OF CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT; “THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY”** on the following parties by placing a true and correct copy thereof in a sealed envelope, addressed to the party listed below and depositing it in a US Postal Service Office with the postage fully prepaid for delivery by First Class, Certified Mail:

Current CEO or President
Lumber Liquidators, Inc.
3000 John Deere Road
Toana, VA 23168

Current CEO or President
Lumber Liquidators Holdings, Inc.
3000 John Deere Road
Toano, VA 23168

Corporation Service Company
dba CSC - Lawyers Incorporating Service
2710 Gateway Oaks Dr., Suite 150N
Sacramento, CA 95833
(Lumber Liquidators, Inc.’s
Registered Agent for Service of Process)

Corporation Service Company
2711 Centerville Road, Suite 400
Wilmington, DE 19808
(Lumber Liquidators Holdings, Inc.’s
Registered Agent for Service of Process in
Delaware)


On April 11, 2014, I served the following documents: **NOTICE OF VIOLATION, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT; ADDITIONAL SUPPORTING INFORMATION FOR CERTIFICATE OF MERIT AS REQUIRED BY CALIFORNIA HEALTH & SAFETY CODE §25249.7(d)(1)** on the following parties by placing a true and correct copy thereof in a sealed envelope, addressed to the party listed below and depositing it in a US Postal Service Office with the postage fully prepaid for delivery by First Class, Certified Mail:

Office of the California Attorney General
Prop 65 Enforcement Reporting
1515 Clay Street, Suite 2000
Post Office Box 70550
Oakland, CA 94612-0550

On April 11, 2014, I served the following documents: **NOTICE OF VIOLATION, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF**

MERIT on each of the parties on the Service List attached hereto by placing a true and correct copy thereof in a sealed envelope, addressed to each of the parties **on the Service List attached hereto**, and depositing it with the U.S. Postal Service with the postage fully prepaid for delivery by First Class Mail.

Executed on April 21, 2014, in Oakland, California.


Toyer Gear

Notice of Violations of California Health & Safety Code §25249.5 *et seq.*

Service List

District Attorney, Alameda County 1225 Fallon Street, Room 900 Oakland, CA 94612	District Attorney, Los Angeles County 210 West Temple Street, Suite 18000 Los Angeles, CA 90012	District Attorney, San Diego County 330 West Broadway, Room 1300 San Diego, CA 92101	District Attorney, Tuolumne County 423 N. Washington Street Sonora, CA 95370
District Attorney, Alpine County P.O. Box 248 Markleeville, CA 96120	District Attorney, Madera County 209 West Yosemite Avenue Madera, CA 93637	District Attorney, San Francisco County 850 Bryant Street, Room 322 San Francisco, CA 94103	District Attorney, Ventura County 800 South Victoria Avenue Ventura, CA 93009
District Attorney, Amador County 708 Court Street, #202 Jackson, CA 95642	District Attorney, Marin County 3501 Civic Center Drive, Room 130 San Rafael, CA 94903	District Attorney, San Joaquin County Post Office Box 990 Stockton, CA 95201	District Attorney, Yolo County 301 2 nd Street Woodland, CA 95695
District Attorney, Butte County 25 County Center Drive Oroville, CA 95965	District Attorney, Mariposa County Post Office Box 730 Mariposa, CA 95338	District Attorney, San Luis Obispo County 1035 Palm St, Room 450 San Luis Obispo, CA 93408	District Attorney, Yuba County 215 Fifth Street, Suite 152 Marysville, CA 95901
District Attorney, Calaveras County 891 Mountain Ranch Road San Andreas, CA 95249	District Attorney, Mendocino County Post Office Box 1000 Ukiah, CA 95482	District Attorney, San Mateo County 400 County Ctr., 3 rd Floor Redwood City, CA 94063	Los Angeles City Attorney's Office City Hall East 200 N. Main Street, Rm 800 Los Angeles, CA 90012
District Attorney, Colusa County 547 Market Street Colusa, CA 95932	District Attorney, Merced County 2222 M Street Merced, CA 95340	District Attorney, Santa Barbara County 1112 Santa Barbara Street Santa Barbara, CA 93101	San Diego City Attorney's Office 1200 3 rd Avenue, Ste 1620 San Diego, CA 92101
District Attorney, Contra Costa County 900 Ward Street Martinez, CA 94553	District Attorney, Modoc County 204 S Court Street, Room 202 Alturas, CA 96101-4020	District Attorney, Santa Clara County 70 West Hedding Street San Jose, CA 95110	San Francisco City Attorney's Office City Hall, Room 234 1 Drive Carlton B Goodlett Place San Francisco, CA 94102
District Attorney, Del Norte County 450 H Street, Ste. 171 Crescent City, CA 95531	District Attorney, Mono County Post Office Box 617 Bridgeport, CA 93517	District Attorney, Santa Cruz County 701 Ocean Street, Room 200 Santa Cruz, CA 95060	San Jose City Attorney's Office 200 East Santa Clara Street, 16 th Floor San Jose, CA 95113
District Attorney, El Dorado County 515 Main Street Placerville, CA 95667	District Attorney, Monterey County Post Office Box 1131 Salinas, CA 93902	District Attorney, Shasta County 1355 West Street Redding, CA 96001	
District Attorney, Fresno County 2220 Tulare Street, #1000 Fresno, CA 93721	District Attorney, Napa County 931 Parkway Mall Napa, CA 94559	District Attorney, Sierra County PO Box 457 Downieville, CA 95936	
District Attorney, Glenn County Post Office Box 430 Willows, CA 95988	District Attorney, Nevada County 110 Union Street Nevada City, CA 95959	District Attorney, Siskiyou County Post Office Box 986 Yreka, CA 96097	
District Attorney, Humboldt County 825 5th Street Eureka, CA 95501	District Attorney, Orange County 401 Civic Center Drive West Santa Ana, CA 92701	District Attorney, Solano County 675 Texas Street, Ste 4500 Fairfield, CA 94533	
District Attorney, Imperial County 940 West Main Street, Ste 102 El Centro, CA 92243	District Attorney, Placer County 10810 Justice Center Drive, Ste 240 Roseville, CA 95678	District Attorney, Sonoma County 600 Administration Drive, Room 212J Santa Rosa, CA 95403	
District Attorney, Inyo County 230 W. Line Street Bishop, CA 93514	District Attorney, Plumas County 520 Main Street, Room 404 Quincy, CA 95971	District Attorney, Stanislaus County 832 12 th Street, Ste 300 Modesto, CA 95353	
District Attorney, Kern County 1215 Truxtun Avenue Bakersfield, CA 93301	District Attorney, Riverside County 3960 Orange Street Riverside, CA 92501	District Attorney, Sutter County 446 Second Street Yuba City, CA 95991	
District Attorney, Kings County 1400 West Lacey Boulevard Hanford, CA 93230	District Attorney, Sacramento County 901 "G" Street Sacramento, CA 95814	District Attorney, Tehama County Post Office Box 519 Red Bluff, CA 96080	
District Attorney, Lake County 255 N. Forbes Street Lakeport, CA 95453	District Attorney, San Benito County 419 Fourth Street, 2 nd Floor Hollister, CA 95023	District Attorney, Trinity County Post Office Box 310 Weaverville, CA 96093	
District Attorney, Lassen County 220 South Lassen Street, Ste. 8 Susanville, CA 96130	District Attorney, San Bernardino County 316 N. Mountain View Avenue San Bernardino, CA 92415-0004	District Attorney, Tulare County 221 S. Mooney Avenue, Room 224 Visalia, CA 93291	