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**FILED**  
Superior Court of California  
County of San Francisco  
JAN 09 2017  
CLERK OF THE COURT  
BY: Arline Ramo  
Deputy Clerk

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

PETER ENGLANDER,  
Plaintiff,  
v.  
LYMAN PRODUCTS CORPORATION and  
DOES 1-150, inclusive,  
Defendants.

Case No. **CGC-17-556317**  
**COMPLAINT FOR CIVIL PENALTIES  
AND INJUNCTIVE RELIEF**  
(Health & Safety Code § 25249.5 *et seq.*)

By Fax

1 **NATURE OF THE ACTION**

2 1. This Complaint is a representative action brought by plaintiff Peter Englander in  
3 the public interest of the citizens of the State of California. Plaintiff brings this action to  
4 enforce the People's right to be informed of the health hazards caused by exposures to lead, a  
5 toxic chemical found in and on brass hammer pins sold by defendants in California.

6 2. By this Complaint, plaintiff seeks to remedy defendants' continuing failure to  
7 warn individuals not covered by California's Occupational Safety Health Act, Labor Code  
8 section 6300 et seq., who purchase, use, or handle defendants' products, about the risks of  
9 exposure to lead present in and on brass hammer pins manufactured, distributed, and/or offered  
10 for sale or use throughout the State of California. Individuals not covered by California's  
11 Occupational Safety Health Act, Labor Code section 6300 et seq., who purchase, use or handle  
12 defendants' products, are referred to hereinafter as "consumers."

13 3. Detectable levels of lead are found in and on the brass hammer pins that  
14 defendants manufacture, distribute, and offer for sale to consumers and other individuals  
15 throughout California.

16 4. Under the Safe Drinking Water and Toxic Enforcement Act of 1986, codified at  
17 Health and Safety Code section 25249.6 et seq. ("Proposition 65"), "[n]o person in the course of  
18 doing business shall knowingly and intentionally expose any individual to a chemical known to  
19 the state to cause cancer or reproductive toxicity without first giving clear and reasonable  
20 warning to such individual . . ." Health & Safety Code § 25249.6.

21 5. Pursuant to Proposition 65, on February 27, 1987, California listed lead as a  
22 chemical known to cause birth defects or other reproductive harm. Lead became subject to the  
23 "clear and reasonable warning" requirements of the act one year later on February 27, 1988.  
24 Cal. Code Regs. tit. 27, § 27001(c); Health & Safety Code §§ 25249.8 & 25249.10(b).  
25 Defendants manufacture, distribute, import, sell, and offer for sale without health hazard warnings  
26 in California, brass hammer pins that contain lead including, but not limited to, the pins offered in  
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1 connection with the *Lyman Brass Tapper Hammer, Item #7031290, UPC #0 11516 81290 2*. All  
2 such brass hammer pins containing lead are referred to hereinafter as "PRODUCTS."

3 6. Defendants' failure to warn consumers in the State of California of the health  
4 hazards associated with exposures to lead in conjunction with defendants' sales of the  
5 PRODUCTS are violations of Proposition 65, and subject defendants, and each of them, to  
6 enjoinder of such conduct as well as civil penalties for each violation. Health & Safety Code  
7 § 25249.7(a) & (b)(1).

8 7. For defendants' violations of Proposition 65, plaintiff seeks preliminary and  
9 permanent injunctive relief to compel defendants to provide consumers of the PRODUCTS with  
10 the required warning regarding the health hazards associated with exposures to lead. Health &  
11 Safety Code § 25249.7(a).

12 8. Pursuant to Health and Safety Code section 25249.7(b), plaintiff also seeks civil  
13 penalties against defendants for their violations of Proposition 65.

#### 14 PARTIES

15 9. Plaintiff PETER ENGLANDER, is a citizen of the State of California who is  
16 dedicated to protecting the health of California citizens through the elimination or reduction of  
17 toxic exposures from consumer products; and he brings this action in the public interest  
18 pursuant to Health and Safety Code section 25249.7(d).

19 10. Defendant LYMAN PRODUCTS CORPORATION ("LYMAN") is a person in  
20 the course of doing business within the meaning of Health and Safety Code sections 25249.6  
21 and 25249.11.

22 11. LYMAN manufactures, imports, distributes, sells, and offers the PRODUCTS for  
23 sale or use in the State of California, or implies by its conduct that it manufactures, imports,  
24 distributes, sells, and offers the PRODUCTS for sale or use in the State of California.

25 12. Defendants DOES 1-50 ("MANUFACTURER DEFENDANTS") are each a  
26 person in the course of doing business within the meaning of Health and Safety Code sections  
27 25249.6 and 25249.11.

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1           13.   **MANUFACTURER DEFENDANTS**, and each of them, research, test, design,  
2 assemble, fabricate, and manufacture, or imply by their conduct that they research, test, design,  
3 assemble, fabricate, and manufacture one or more of the **PRODUCTS** offered for sale or use in  
4 California.

5           14.   **Defendants DOES 51-100 ("DISTRIBUTOR DEFENDANTS")** are each a person  
6 in the course of doing business within the meaning of Health and Safety Code sections 25249.6  
7 and 25249.11.

8           15.   **DISTRIBUTOR DEFENDANTS**, and each of them, distribute, exchange,  
9 transfer, process, and transport one or more of the **PRODUCTS** to individuals, businesses, or  
10 retailers for sale or use in the State of California, or imply by their conduct that they distribute,  
11 exchange, transfer, process, and transport one or more of the **PRODUCTS** to individuals,  
12 businesses, or retailers for sale or use in the State of California.

13           16.   **Defendants DOES 101-150 ("RETAILER DEFENDANTS")** are each a person in  
14 the course of doing business within the meaning of Health and Safety Code sections 25249.6  
15 and 25249.11.

16           17.   **RETAILER DEFENDANTS**, and each of them, offer the **PRODUCTS** for sale to  
17 consumers and other individuals in the State of California.

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

23           19.   **LYMAN, MANUFACTURER DEFENDANTS, DISTRIBUTOR**  
24 **DEFENDANTS, and RETAILER DEFENDANTS** shall hereinafter collectively be referred to  
25 as "**DEFENDANTS.**"

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1 **VENUE AND JURISDICTION**

2 20. Venue is proper in the Superior Court for the County of San Francisco pursuant to  
3 Code of Civil Procedure sections 393, 395, and 395.5, because this Court is a court of  
4 competent jurisdiction, because plaintiff seeks civil penalties against DEFENDANTS, because  
5 one or more instances of wrongful conduct occurred, and continue to occur, in this county,  
6 and/or because DEFENDANTS conducted, and continue to conduct business in San Francisco  
7 with respect to the PRODUCTS.

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

12 22. The California Superior Court has jurisdiction over DEFENDANTS based on  
13 Plaintiff's information and good faith belief that DEFENDANTS are each a person, firm,  
14 corporation or association that is a citizen of the State of California, has sufficient minimum  
15 contacts in the State of California, and/or otherwise purposefully avails itself of the California  
16 market. DEFENDANTS' purposeful availment renders the exercise of personal jurisdiction by  
17 California courts consistent with traditional notions of fair play and substantial justice.

18 **FIRST CAUSE OF ACTION**

19 **(Violation of Proposition 65 - Against All Defendants)**

20 23. Plaintiff realleges and incorporates by reference, as if fully set forth herein,  
21 Paragraphs 1 through 22, inclusive.

22 24. In enacting Proposition 65, in the preamble to the Safe Drinking Water and Toxic  
23 Enforcement Act of 1986, the People of California expressly declared their right "[t]o be  
24 informed about exposures to chemicals that cause cancer, birth defects, or other reproductive  
25 harm."

26 25. Proposition 65 states, "[n]o person in the course of doing business shall  
27 knowingly and intentionally expose any individual to a chemical known to the state to cause  
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1 cancer or reproductive toxicity without first giving clear and reasonable warning to such  
2 individual . . . .” Health & Safety Code § 25249.6.

3 26. On October 28, 2016, plaintiff served a sixty-day notice of violation together with  
4 an accompanying certificate of merit, on LYMAN, the California Attorney General’s Office,  
5 and all other requisite public enforcement agencies alleging that, as a result of DEFENDANTS’  
6 sales of the PRODUCTS, consumers and other individuals in the State of California are being  
7 exposed to lead resulting from their reasonably foreseeable use of the PRODUCTS, without the  
8 consumers first receiving a “clear and reasonable warning” regarding the harms associated with  
9 exposures to lead, as required by Proposition 65.

10 27. DEFENDANTS manufacture, import, distribute, sell, and offer the PRODUCTS  
11 for sale or use in violation of Health and Safety Code section 25249.6, and DEFENDANTS’  
12 violations have continued beyond their receipt of plaintiff’s sixty-day notice of violation. As  
13 such, DEFENDANTS’ violations are ongoing and continuous in nature and, unless enjoined  
14 will continue in the future.

15 28. After receiving plaintiff’s sixty-day notice of violation, no public enforcement  
16 agency has commenced and diligently prosecuted a cause of action against DEFENDANTS  
17 under Proposition 65 to enforce the alleged violations that are the subject of plaintiff’s notice of  
18 violation.

19 29. The PRODUCTS that DEFENDANTS manufacture, import, distribute, sell, and  
20 offer for sale or use in California expose consumers and other individuals to lead, resulting from  
21 their reasonably foreseeable use of the PRODUCTS. Such exposures caused by DEFENDANTS  
22 and endured by consumers in California are not exempt from the “clear and reasonable” warning  
23 requirements of Proposition 65, yet DEFENDANTS provide no clear and reasonable warning.  
24 DEFENDANT’S violations of Proposition 65 as a result of their failure to provide warnings to  
25 consumers and other individuals exposed to lead from the PRODUCTS in violation of Proposition  
26 65 have continued since as far back as October 28, 2013.

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1           30.   DEFENDANTS know or should know that the PRODUCTS they manufacture,  
2 import, distribute, sell, and offer for sale in California contain lead.

3           31.   Lead is present in or on the PRODUCTS in such a way as to expose consumers  
4 through dermal contact and/or ingestion during reasonably foreseeable use.

5           32.   The normal and reasonably foreseeable use of the PRODUCTS has caused, and  
6 continues to cause, consumer exposures to lead, as defined by title 27 of the California Code of  
7 Regulations, section 25602(b).

8           33.   DEFENDANTS know that the normal and reasonably foreseeable use of the  
9 PRODUCTS exposes consumers and other individuals to lead through dermal contact and/or  
10 ingestion.

11          34.   DEFENDANTS intend for such exposures to lead from the reasonably  
12 foreseeable use of the PRODUCTS to occur by their deliberate, non-accidental participation in  
13 the manufacture, importation, distribution, sale, and offering of the PRODUCTS for sale or use  
14 to consumers in California.

15          35.   DEFENDANTS failed to provide a "clear and reasonable warning" to those  
16 consumers and other individuals in California who have been, or who will be, exposed to lead  
17 through dermal contact and/or ingestion resulting from their use of the PRODUCTS.

18          36.   Contrary to the express policy and statutory prohibition of Proposition 65 enacted  
19 directly by California voters, consumers exposed to lead through dermal contact and/or  
20 ingestion as a result of their use of the PRODUCTS that DEFENDANTS sold without a "clear  
21 and reasonable" health hazard warning, have suffered, and continue to suffer, irreparable harm  
22 for which they have no plain, speedy, or adequate remedy at law.

23          37.   Pursuant to Health and Safety Code section 25249.7(b), as a consequence of the  
24 above-described acts, DEFENDANTS, and each of them, are liable for a maximum civil penalty  
25 of \$2,500 per day for each violation.

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