

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF IOWA**

DENNIS CHAPMAN, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

LUMBER LIQUIDATORS, INC.;
LUMBER LIQUIDATORS LEASING,
LLC; LUMBER LIQUIDATORS
HOLDING, INC.; LUMBER
LIQUIDATORS SERVICES, LLC,

Defendants.

CASE NO.

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

Plaintiff Dennis Chapman (“Plaintiff”), by and through his counsel, bring this Class Action Complaint against Defendant Lumber Liquidators Inc., Defendant Lumber Liquidators Leasing, LLC, Defendant Lumber Liquidators Holding, Inc., and Defendant Lumber Liquidators Services, LLC (collectively “Lumber Liquidators” or “Defendants”), and allege, upon personal knowledge as to his own actions, and upon information and belief and the investigation of his counsel as to all other matters, as follows:

NATURE OF THE CASE

1. This is a consumer protection and false advertising class action. Lumber Liquidators supervises and controls the manufacturing, and packages, distributes, markets and sells a variety of Chinese-manufactured laminate wood flooring materials (the “Products” or “Chinese Flooring”) that it prominently advertises and warrants as fully compliant with California’s strict formaldehyde emission standards promulgated by the California Air Resources Board (“CARB”) and enumerated in California’s Airborne Toxic Control Measure to Reduce Formaldehyde Emissions from Composite Wood Products (“CARB Regulations”). Cal. Code Regs. tit. 17, §§ 93120-93120.12. Those standards have been adopted as the national standard by the Formaldehyde Standards for Composite-Wood Products Act, 15 U.S.C. § 2697.

2. Defendants also represent and advertise that their Chinese-manufactured

laminated wood flooring materials sold throughout the United States comply with the CARB Regulations.

3. Defendants' claims that the Products comply with CARB's standards for formaldehyde emissions and "with all applicable laws, codes and regulations" are false. As detailed herein, the Products emit formaldehyde gas at levels that exceed the strict limits set forth in the CARB Regulations. Defendants also fail to disclose the unlawful level of formaldehyde emission to consumers.

4. Chinese-made flooring products have come under scrutiny in recent years. According to the Hardwood Plywood and Veneer Association ("HPVA"), Chinese-made flooring sold in North America is known to have higher than expected levels of formaldehyde emissions.¹ The HPVA began testing the Chinese-made flooring and found that "the levels of formaldehyde were so high... some were two to three times over the line."² Indeed, China is now the largest manufacturer of formaldehyde products and "more than 65% of the Chinese formaldehyde output is used to produce resins mainly found in wood products."³

5. In an attempt to allay safety concerns regarding its Chinese-made flooring products, Defendants uniformly claim that all of its hardwood and laminated flooring products are compliant with the California Air Resources Board's ("CARB") standards for safe formaldehyde emissions. On its website, Defendant states: "commitment to quality and safety extends to everywhere we do business. We require that all of our suppliers comply with California's advanced environmental requirements, even for products sold outside

¹ Gil Shochat, High Levels of formaldehyde found in Chinese-made floors sold in North America, GLOBAL NEWS (Oct. 3, 2014), available at <http://globalnews.ca/news/1594273/high-levels-of-formaldehyde-found-in-chinese-made-floors-sold-in-north-america/> (last visited April 24, 2015).

² *Id.*

³ Xiaojiung Tang et al., Formaldehyde in China: Production, consumption, exposure levels, and health effects, ENVIRONMENTAL INTERNATIONAL VOLUME 36, ISSUE 3 (April 2010), available at http://ac.els-cdn.com/S0160412009002402/1-s2.0-S0160412009002402-main.pdf?_tid=dd4df5ba-c1ea-11e4-9b60-00000aab0f6b&acdnat=1425417700_25414e62d2ab566a9dd77bde3169e4cc (last April 24, 2015).

California.”⁴ As described herein, the packaging for all Lumber Liquidators’ Chinese-made flooring products claim that the products are compliant with California CARB formaldehyde standards.

6. Despite assurances that its flooring products are safe and comply with California formaldehyde regulations, several reports have shown that Lumber Liquidators’ Chinese-made flooring products actually contain levels of formaldehyde that exceed the CARB standards. On March 1, 2015, *60 Minutes* news aired a story dispelling Lumber Liquidators’ claims that its flooring products are compliant with California formaldehyde standards. The news story was prompted by an investigation that was conducted by two environmental advocacy groups. The environmental groups purchased more than 150 boxes of Lumber Liquidators’ laminate flooring at stores around California and sent the boxes to three certified labs for a series of tests. The results showed that “every single sample of Chinese-made laminate flooring from Lumber Liquidators failed to meet California formaldehyde emissions standards. Many by a large margin.”⁵

7. The results of that investigation prompted *60 Minutes* news to conduct its own independent investigation into Lumber Liquidators’ Chinese-made Flooring. The *60 Minutes* news team went to stores in Virginia, Florida, Texas, and New York and purchased 31 boxes of Lumber Liquidators’ Chinese-made flooring. *60 Minutes* sent the sample for testing at two certified labs. “It turns out of the 31 samples of Chinese-made laminate flooring, only one was compliant with formaldehyde emissions standards. Some were more than 13x over the California limit.”⁶ Both of the labs told *60 Minutes* that they had never seen formaldehyde levels that high.

8. *60 Minutes* then sent undercover investigators with hidden cameras to the city of Changzhou, China. The investigators posed as buyers and visited three different mills that

⁴ See <http://www.lumberliquidators.com/sustainability/health-and-safety/> (last visited April 24, 2015).

⁵ *Lumber Liquidators Linked to Health and Safety Violations*, 60 MINUTES (Mar. 1, 2015), available at <http://www.cbsnews.com/news/lumber-liquidators-linked-to-health-and-safety-violations/> (last visited April 24, 2015).

⁶ *Id.*

manufacture laminates and flooring on behalf of Defendant. The results of the undercover investigation were alarming:

Employees at the mills *openly admitted* that they used core boards with higher levels of formaldehyde to make Lumber Liquidators laminates, saving the company 10-15 percent on the price. At all three mills they also admitted falsely labeling the company's laminate flooring as CARB compliant.⁷

9. Lumber Liquidators' illegal behavior with respect to its manufacturing, marketing, and sale of Chinese Flooring has caused Plaintiff and the other Class members to suffer direct financial harm. Plaintiff's purchase is markedly less valuable because of its elevated level of formaldehyde. Plaintiff would have paid significantly less, if he purchased Chinese Flooring at all, had he known that the product contained elevated levels of the toxin formaldehyde.

10. Plaintiff asserts claims individually and on behalf of the other members of the proposed Class.

PARTIES

11. Plaintiff Dennis Chapman is a resident of Carroll County, Iowa. Plaintiff owns a home in Manning, Iowa in which Lumber Liquidators' Chinese Flooring is installed. In July 2014, Plaintiff purchased Dream Home Kensington Manor composite wood flooring from Lumber Liquidators and installed it in his home. Plaintiff relied on the representations of Lumber Liquidators, Lumber Liquidators' representatives, and the express warranties on the Flooring regarding CARB compliance in selecting the Chinese Flooring over all other brands of flooring. However, contrary to Lumber Liquidators' representations and the warranties, the Flooring is not CARB compliant.

12. Defendant Lumber Liquidators, Inc. is a corporation organized under the State of Delaware's Corporation Law with its principal place of business at 3000 John Deere Road, Toano, Virginia 23168. Defendant Lumber Liquidators, Inc. markets, advertises, distributes

⁷ *Id.* (emphasis added).

and sells the Products to consumers throughout Iowa and the United States.

13. Defendant Lumber Liquidators Leasing, LLC, is a Delaware Limited Liability Corporation with its principal place of business at 3000 John Deere Road, Toano, Virginia 23168.

14. Defendant Lumber Liquidators Holding, Inc., is a Delaware corporation with its principal place of business at 3000 John Deere Road, Toano, Virginia 23618.

15. Defendant Lumber Liquidators Services, LLC, is a Delaware Limited Liability Corporation with its principal place of business at 3000 John Deere Road, Toano, Virginia 23168.

JURISDICTION AND VENUE

16. The Court has original jurisdiction pursuant to 28 U.S.C. § 1332(d)(2), the Class Action Fairness Act, because the matter in controversy exceeds the sum or value of \$5,000,000 exclusive of interest and costs and because more than two-thirds of the members of the class reside in states other than the state in which Defendants reside.

17. This Court has diversity jurisdiction pursuant to 28 U.S.C. § 1332(a) because Plaintiff is a resident of Iowa and Defendants are Delaware Corporations that maintain their principal place of business in Virginia. The amount in controversy in this action exceeds the sum or value of \$75,000.

18. This Court has personal jurisdiction over Defendants because they conduct business in Iowa and otherwise intentionally avail themselves of the markets in Iowa to render the exercise of jurisdiction by this Court proper. Defendants have marketed, promoted, distributed, and sold the Products in Iowa and throughout the United States.

19. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b)(2) because a substantial part of the events or omissions giving rise to the alleged claims occurred in this District given that Lumber Liquidators markets, promotes, distributes and sells the Products in this District.

FACTUAL ALLEGATIONS

A. Lumber Liquidators

20. Lumber Liquidators is one of the largest specialty retailers of hardwood flooring in the United States, with over 300 retail stores in 46 states. Lumber Liquidators sells primarily to homeowners directly or to contractors acting on behalf of homeowners. Consumers may also purchase the Company's products online, and any purchases made over the Internet are shipped to the Lumber Liquidators retail location of the customers choosing.

21. Lumber Liquidators prides itself on having one of the largest inventories of prefinished and unfinished hardwood floors in the industry. Lumber Liquidators carries solid and engineered hardwood, laminate flooring, bamboo flooring, cork flooring and resilient vinyl flooring, butcher blocks, molding, accessories, and tools.

22. Lumber Liquidators represents that it negotiates directly with the lumber mills, eliminating the middleman and passing the savings on to its customers. As detailed herein, one of the primary reasons Lumber Liquidators has grown so quickly and its profits have surged has been through the Company's misrepresentations about the formaldehyde levels of its products.

B. Formaldehyde in Wood Flooring

23. Formaldehyde is a colorless, and strong smelling gas. According to the Occupational Safety and Health Administration ("OSHA"), formaldehyde is "commonly used a preservative in medical laboratories and mortuaries, formaldehyde is also found in many products such as chemicals particle board, household products, glues, permanent press fabrics, paper product coatings, fiberboard, and plywood." At high exposure levels, "formaldehyde is a sensitizing agent that can cause and immune system response upon initial exposure. It is also a cancer hazard."⁸ Formaldehyde exposure can be irritating to the eyes, nose, and throat and severe allergic reactions may occur in the skin, eyes, and respiratory tract.⁹

⁸ https://www.osha.gov/OshDoc/data_General_Facts/formaldehyde-factsheet.pdf (last visited April 24, 2015).

⁹ *Id.*

24. When wood flooring is manufactured, layers of wood particles are “pressed together and sealed with adhesives containing urea formaldehyde resin” (“UFR”). UFR is “highly water-soluble and therefore is the most problematic mixture for indoor air pollution.”

25. Pressed-wood products, like hardwood plywood and particleboard, are considered a major source of indoor formaldehyde emissions.

26. All of the Lumber Liquidators Chinese-made Flooring Products contain a UFR formaldehyde or other formaldehyde resin.

C. CARB Regulations Regarding Formaldehyde

27. The California Air Resource Board, or “CARB,” is a department of the California Environmental Protection Agency. CARB oversees all air pollution control efforts in California to maintain air quality standards.

28. In January of 2009, CARB promulgated regulations called the Airborne Toxic Control Measure to Reduce Formaldehyde Emissions from Composite Wood Products. *See* 17 California Code of Regulations (“CCR”) §§ 93120-93120.12 (the “CARB Regulations”). The CARB Regulations apply to various wood products, including wood flooring products. Phase 2 of the CARB regulations mandate that composite wood products sold in the State of California must emit no more than between 0.05 parts per million and 0.13 parts per million of formaldehyde depending on whether the product is classified as a type of hardwood plywood or medium density fiberboard.

29. On July 7, 2010, the federal Formaldehyde Standards for Composite Wood Products Act of 2010 was signed into law by President Obama. *See* 15 U.S.C. § 2697.

30. Significantly, the federal Formaldehyde Standards Act adopted the same standards established by CARB as a nationwide standard.¹⁰ The comment period for the Environmental Protection Agency’s proposed rules governing this statute is now closed and implementing regulations are expected to be released sometime this year.

¹⁰ <http://www2.epa.gov/formaldehyde/formaldehyde-emission-standards-composite-woodproducts> (last visited April 24, 2015).

D. Lumber Liquidators' Chinese-Made Composite Wood Flooring

31. Lumber Liquidators has distributed, marketed, and sold various laminate flooring products that are manufactured in China (the "Chinese-Made Flooring Products").

32. Specifically, the Chinese-made Flooring Products include, but are not limited to:

- a. 8 mm Bristol County Cherry Laminate Flooring;
- b. 8 mm Dream Home Nirvana Royal Mahogany Laminate Flooring;
- c. 8 mm Dream Home Nirvana French Oak Laminate Flooring;
- d. 10 mm Dream Home Nirvana Ponta Negra Braz Cherry Laminate Flooring;
- e. 12 mm Dream Home Ispiri Poplar Forest Oak Laminate Flooring;
- f. 12 mm Dream Home Kensington Manor Antique Bamboo Laminate Flooring;
- g. 12 mm Dream Home St. James Oceanside Plank Laminate Flooring;
- h. 12 mm Dream Home Kensington Manor Warm Springs Chestnut Laminate Flooring;
- i. 15 mm Dream Home St. James Sky Lakes Pine Laminate Flooring;
- j. 12 mm Dream Home Kensington Manor Imperial Teak Laminate Flooring;
- k. 12 mm Dream Home St. James Vintner's Reserve Laminate Flooring;
- l. 12 mm Dream Home Kensington Manor Cape Doctor Laminate Flooring;
- m. 12 mm Dream Home St. James Golden-Acacia Laminate Flooring;
- n. 12 mm Dream Home Kensington Manor Sandy Hills Hickory Laminate Flooring;
- o. 12 mm Dream Home Kensington Manor Tanzanian Wenge Laminate Flooring;
- p. 12 mm Dream Home Ispiri America's Mission Olive Laminate

- Flooring;
- q. 12 mm Dream Home Kensington Manor Golden Teak Laminate Flooring;
 - r. 12 mm Dream Home Kensington Manor Summer Retreat Teak Laminate Flooring;
 - s. 12 mm Dream Home Kensington Manor Glacier Peak Poplar Laminate Flooring;
 - t. 12 mm Dream Home St. James Brazilian Koa Laminate Flooring;
 - u. 12 mm Dream Home St. James Blacksburg Barn Board Laminate Flooring;
 - v. 12 mm Dream Home St. James Nantucket Beech Laminate Flooring;
 - w. 12 mm Dream Home St. James Chimney Rock Charcoal Laminate Flooring;
 - x. 12 mm Dream Home St. James African Mahogany Laminate Flooring;
 - y. 12 mm Dream Home Kensington Manor Fumed African Ironwood Laminate Flooring.
 - z. 12 mm Dream Home St. James Oceanside Plank Bamboo Laminate Flooring;
 - aa. 12 mm Dream Home Kensington Manor Warm Springs Chestnut Laminate Flooring;
 - bb. 15 mm Dream Home St. James Sky Lakes Pine Laminate Flooring;
 - cc. 12 mm Dream Home Ispiri Chimney Tops Smoked Oak Laminate Flooring;
 - dd. 12 mm Dream Home Kensington Manor Imperial Teak Laminate Flooring;
 - ee. 12 mm Dream Home St. James Cumberland Mountain Oak.

33. The Lumber Liquidators Chinese-made Flooring Products state in a uniform manner on the packaging that they are “California 93120 Phase 2 Compliant for

Formaldehyde,” which indicates that the Chinese Flooring Products meet the CARB emission standards for formaldehyde.¹¹ This statement is false and misleading for the reasons described herein.

34. On the Lumber Liquidators website, Defendants also make false and misleading statement about their CARB compliance:

Is Lumber Liquidators Compliant with the California law?

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

Does CARB only apply to California?

Though it currently applies only to products sold in California, Lumber Liquidators made a decision to require all of our vendors to comply with the California Air Resources Board regulations regardless of whether we intended to sell the products in California or any other state/country.¹²

35. In addition, the product packaging for the Products states: “CARB ...Phase 2 Compliant for Formaldehyde.” On information and belief, this statement is presented on all of Lumber Liquidators’ Products regardless of whether the flooring inside the package complied with CARB Regulations.

36. According to CARB, “The label seen on panels and finished goods indicates that the product meets the California Air Resources Board’s (CARB) stringent emission

¹¹ http://www.arb.ca.gov/toxics/compwood/consumer_faq.pdf (explaining that “Manufactures typically will label their products as ‘California 93120 Compliant for Formaldehyde’ or ‘California Phase 2 Compliant’ if the products meet the stringent CARB regulations for formaldehyde.”) (last visited April 23, 2015).

¹² See http://www.lumberliquidators.com/ll/flooring/ca-air-resources-board-regulations?Wt.ad=GLOBAL_FOOTER_CaliRegCARB (last visited April 23, 2015).

standards for formaldehyde emissions from composite wood products, including HWPW, PB, and MDF.”

37. Lumber Liquidators’ purchase orders come with a warranty from the manufacturers/packagers stating that the Products comply “with all applicable laws, codes and regulations,” and “bear all warnings, labels, and markings required by applicable laws and regulations.”¹³ These representations also are false.

38. Lumber Liquidators’ website also guarantees the “highest quality” flooring, and states (emphasis in the original):

1) INSPECTION - We inspect your flooring at every stage: before it’s finished, during production, and as it’s shipped. Our Quality Assurance team operates on three continents, 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.

2) COMPLIANCE - We not only comply with laws - we exceed them. For example, California has the highest standards regarding laminate and engineered flooring. All of our mills that produce these products are certified by a Third Party approved by the State of California - and we apply these standards nationwide.

3) TESTING - We are continually investing in, testing, evaluating and assuring the highest quality. Our Quality Assurance team includes certified Six Sigma professionals with Master’s Degrees in Quality Management and various team members with degrees in Biology, Chemistry, Wood Science and Engineering. They work around the world to test your flooring at every stage. We also regularly send product out to an independent lab for additional testing to ensure quality.¹⁴

39. Instead of warning consumers about formaldehyde emissions from its laminate wood flooring products, Lumber Liquidators’ website states that it has Third Party Certifiers approve its flooring products to meet CARB standards:

¹³ See www.lumberliquidators.com/ll/customer-care/potc800201 (last visited April 24, 2015).

¹⁴ See <http://web.archive.org/web/20130731042457/http://www.lumberliquidators.com/ll/flooring/Quality> (emphasis added) (last visited April 24, 2015).

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

40. Lumber Liquidators materially misrepresents the safety of its laminate wood flooring products by advertising its flooring products as compliant with the CARB limit when in fact they are not.

41. Lumber Liquidators makes the material omission of failing to tell consumers that they are buying laminate wood flooring products with unlawfully high levels of formaldehyde.

42. However, Lumber Liquidators does not comply with CARB regulations when selling and distributing the Chinese-made Flooring Products. Several independent tests conducted by certified laboratories reveal that the Chinese Flooring Products emit formaldehyde levels well beyond what is allowable by CARB regulations. These test results have shown that average formaldehyde exposures during testing exceeded the 0.05 to 0.11 parts per million as allowed under CARB regulations set forth in 17 CCR §§ 93120-93120.12, *et seq.*

43. Lumber Liquidators' Chinese-made flooring was first called into question in June of 2013 when a blogger named Xuhua Zhou reported on the website Seeking Alpha the results of his independent investigation. Zhou sent samples of Lumber Liquidators' Flooring to be tested by independent laboratories and posted the results online. As Zhou explained:

I recently conducted independent lab testing –engaging Berkeley

¹⁵ See Formaldehyde-What is it? Regulations and Lumber Liquidators' Compliance, available at http://server.iad.liveperson.net/hc/s-13045352/cmd/kbresource/kb-752012092953572339/view_question!PAGETYPE?sf=101133&documentid=415037&action=view (last visited April 24, 2015).

Analytical, an IAS accredited testing laboratory – on a sample of Lumber Liquidators house brand flooring (“Mayflower” brand), and the results that came back weren’t pretty: Over 3.5x the maximum legal level for formaldehyde. Fully understanding the importance of this finding, we submitted samples from the same package to a second laboratory, this one the “gold standard” lab for the National Wood Flooring Association, NTW. The second lab confirms the product is in violation of the legal limit for formaldehyde.¹⁶

44. Another set of tests on Lumber Liquidators’ Chinese-made flooring were conducted by the environmental advocacy groups Global Community Monitor and Sunshine Park, LLC. The two companies have filed suit in the California Superior Court for the County of Alameda against Lumber Liquidators for its alleged violation of the California Safe Drinking Water and Toxic Enforcement Act of 1986 commonly known as “Proposition 65” (“The Global Community Monitor Lawsuit.”) The complaint states that the groups conducted over fifty tests using various test methods and two different laboratory locations. Test results showed average exposures of formaldehyde at the time of testing exceeded 4,000 micrograms per day (“ug/day) over 100 times above the 40 ug/day threshold established by California’s Proposition 65.

45. In accordance with California Health and Safety Code Section 25249.6, an attorney representing Global Community Monitor submitted a Certificate of Merit certifying that he consulted with persons who have the relevant and appropriate experience before filing suit. His consultants determined that there is a “reasonable and meritorious case for the private action” against Lumber Liquidators based on its sales of Chinese-made Flooring Products. The Global Community Monitor Lawsuit seeks injunctive relief and civil penalties as allowed by Proposition 65.

46. The most recent investigation into Lumber Liquidators flooring was conducted by *60 Minutes* News. *60 Minutes* purchased 31 boxes of Chinese-made Flooring Products from Lumber Liquidators stores in five different states and sent samples to two certified labs for

¹⁶ Xuhua Zhou, *Illegal Products Could Spell Big Trouble at Lumber Liquidators*, SEEKING ALPHA, (Jun. 20, 2013) <http://seekingalpha.com/article/1513142-illegal-products-couldspell-big-trouble-at-lumber-liquidators> (last visited April 24, 2015).

testing. Out of the 31 samples, only one was found to be compliant with CARB formaldehyde emissions standards. Some were even more than 13 times over the California limit.

47. Moreover, manufacturers in China admitted on camera to *60 Minutes* News that the Chinese-made Flooring Products sold by Lumber Liquidators are not compliant with CARB regulations. A transcript from the *60 Minutes* news report reads as follows:

Posing as buyers, and using hidden cameras, the investigators visited three different mills that manufacture laminates for Lumber Liquidators.

Employees at the mills openly admitted that they use core boards with higher levels of formaldehyde to make Lumber Liquidators laminates, saving the company 10-15 percent on the price. At all three mills they also admitted falsely labeling the company's laminate flooring as CARB 2, meaning it meets California formaldehyde emissions standards, and the new U.S. federal law.

At this factory, the general manager told investigators Lumber Liquidators is one of their biggest customers.

Manager: This is a best-seller for Lumber Liquidators.

Investigator: For Lumber Liquidators?

Manager: Yeah.

Investigator: How long have you been selling this?

Manager: From last year.

Investigator: Is this CARB 2?

Manager: No, no, no . . . I have to be honest with you. It's not CARB 2.

Investigator: Can I get CARB 2?

Manager: Yes, you can. It's just the price issue. We can make CARB 2 but it would be very expensive.

And that's the same thing the undercover team was told at all three mills they visited.

Investigator: All this stuff here, Lumber Liquidators... All

not their labeling is CARB 2 right? But it's
CARB 2?

Employee: Not CARB 2.¹⁷

48. Plaintiff and other Class members would not have purchased the Chinese Flooring Products if they had known that the products were not compliant with CARB and that the Products emit unlawful levels of formaldehyde.

E. Plaintiff's Reliance and Damages

49. During the relevant time period, Plaintiff purchased Dream Home Kensington Manor composite wood product from Lumber Liquidators at a Lumber Liquidators store located in Iowa. On information and belief, the flooring was produced at a laminate mill in China.

50. At the time that Plaintiff purchased this laminate wood flooring, Lumber Liquidators falsely represented that the product was compliant with CARB formaldehyde emission standards and was defect free. At the time of the purchase, Lumber Liquidators also failed to inform Plaintiff that the laminate wood flooring product he purchased actually exceeded the CARB formaldehyde emission-limit and that formaldehyde is a chemical known to the State of California to cause cancer.

51. Plaintiff relied on Lumber Liquidators' misrepresentations/omissions regarding compliance with CARB formaldehyde emission standards when deciding to purchase the laminate wood flooring products and, as a result, paid Lumber Liquidators for a product he would not have otherwise purchased.

52. If Lumber Liquidators' laminate wood flooring becomes CARB compliant, Plaintiff would likely purchase it in the future.

53. Plaintiff paid for CARB compliant products, but received products that were not CARB compliant. By purchasing Products in reliance on advertising that is false, Plaintiff has suffered injury in fact and lost money as a result of the unfair business practices alleged

¹⁷ *Lumber Liquidators Linked to Health and Safety Violations*, 60 MINUTES (Mar. 1, 2015), available at <http://www.cbsnews.com/news/lumber-liquidators-linked-to-health-and-safety-violations/> (last visited April 24, 2015).

here.

F. Tolling Of The Statute Of Limitations, Fraudulent Concealment, Equitable Tolling And Continuing Violations

54. Plaintiff did not discover, and could not have discovered, through the exercise of reasonable diligence, the existence of the claims sued upon herein until immediately prior to commencing this civil action.

55. Any applicable statutes of limitation have been tolled by Defendant's affirmative acts of fraudulent concealment and continuing misrepresentations, as the facts alleged above reveal.

56. Because of the self-concealing nature of Defendant's actions and its affirmative acts of concealment, Plaintiff asserts the tolling of any applicable statutes of limitations affecting the claims raised herein, on his behalf and on behalf of all other Class members.

57. Defendant continues to engage in the deceptive practice, and consequently, unwary consumers are injured on a daily basis by Defendant's unlawful conduct. Therefore, Plaintiff and the Classes submit that each instance that Defendant engaged in the conduct complained of herein and each instance that a member of any Class purchased the Product constitutes part of a continuing violation and operates to toll the statutes of limitation in this action.

58. Defendant is estopped from relying on any statute of limitations defense because of their unfair or deceptive conduct.

59. Defendant's conduct was and is, by its nature, self-concealing. Still, Defendant, through a series of affirmative acts or omissions, suppressed the dissemination of truthful information regarding their illegal conduct, and actively has foreclosed Plaintiff and the Classes from learning of their illegal, unfair, and/or deceptive acts. These affirmative acts included concealing that the Products are not CARB compliant.

60. By reason of the foregoing, the claims of Plaintiff and the Classes are timely under any applicable statute of limitations, pursuant to the discovery rule, the equitable tolling doctrine, and fraudulent concealment.

CLASS ACTION ALLEGATIONS

61. Plaintiff seeks relief in his individual capacity and as a class representative of all others who are similarly situated. Pursuant to Fed. R. Civ. P. 23(a) and (b)(2) and/or (b)(3), Plaintiff seeks certification of the following Nationwide and Iowa Classes.

62. The Nationwide Damages Class is initially defined as follows:

All persons residing in the United States who, during the applicable statute of limitations period through the date notice is disseminated to the Class, purchased from Lumber Liquidators one or more laminate wood flooring products that were for their personal use rather than for resale or distribution, that were manufactured in China, and that were advertised as being CARB compliant.

63. The Nationwide Injunctive Relief Only Class is initially defined as follows:

All persons residing in the United States who, during the applicable statute of limitations period through the date notice is disseminated to the Class, purchased from Lumber Liquidators one or more laminate wood flooring products that were for their personal use rather than for resale or distribution, that were manufactured in China, and that were advertised as being CARB compliant.

64. The Iowa Class is initially defined as follows:

All persons residing in the State of Iowa who, during the applicable statute of limitations period through the date notice is disseminated to the Class, purchased from Lumber Liquidators one or more laminate wood flooring products that were for their personal use rather than for resale or distribution, that were manufactured in China, and that were advertised as being CARB compliant.

65. Excluded from each of the above Classes are Defendant, including any entity in which Lumber Liquidators has a controlling interest, is a parent or subsidiary, or which is controlled by Defendant, as well as the officers, directors, affiliates, legal representatives, predecessors, successors, and assigns of Defendant. Also excluded are the judges and court personnel in this case and any members of their immediate families, as well as any person who purchased the Product for the purpose of resale.

66. Plaintiff reserves the right to amend or modify the Class definitions with greater

specificity or division into subclasses after having had an opportunity to conduct discovery.

67. Numerosity. Fed. R. Civ. P. 23(a)(1). Each Class is so numerous that joinder of all members is unfeasible and not practicable. While the precise number of Class members has not been determined at this time, Plaintiff is informed and believe that many thousands or millions of consumers have purchased the Products.

68. Commonality. Fed. R. Civ. P. 23(a)(2) and (b)(3). There are questions of law and fact common to each Class, which predominate over any questions affecting only individual Class members. These common questions of law and fact include, without limitation:

- a. Whether Lumber Liquidators' laminate wood flooring products sold exceed the CARB limit;
- b. Whether Lumber Liquidators' claim that its laminate wood flooring products comply with the CARB limit is false;
- c. Whether Lumber Liquidators uniformly conveyed to the classes that the Products complied with CARB regulations;
- d. Whether Lumber Liquidators failed to disclose material information regarding the emission of unlawful levels of formaldehyde from its laminate wood flooring products;
- e. Whether Lumber Liquidators' representations that its laminate wood flooring products comply with the CARB limit are material, as judged by an objective standard;
- f. Whether Lumber Liquidators breached express and implied warranties;
- g. Whether Lumber Liquidators committed unfair and deceptive acts or practices in violation of Iowa Consumer Fraud Law § 714h;
- h. Whether Plaintiff and Class members have suffered damages to their personal property, including HVAC and refrigerator systems;
- i. Whether Lumber Liquidators was unjustly enriched; and
- j. The nature of the relief, including equitable relief, to which Plaintiff and the

Class members are entitled.

69. Typicality. Fed. R. Civ. P. 23(a)(3). Plaintiff's claims are typical of the claims of the Class. Plaintiff and all Class members were exposed to uniform practices and sustained injury arising out of and caused by Lumber Liquidators' unlawful conduct.

70. Adequacy of Representation. Fed. R. Civ. P. 23(a)(4). Plaintiff will fairly and adequately represent and protect the interests of the members of the Class. Plaintiff's Counsel are competent and experienced in litigating class actions.

71. Superiority of Class Action. Fed. R. Civ. P. 23(b)(3). A class action is superior to other available methods for the fair and efficient adjudication of this controversy since joinder of all the members of the Class is impracticable. Furthermore, the adjudication of this controversy through a class action will avoid the possibility of inconsistent and potentially conflicting adjudication of the asserted claims. There will be no difficulty in the management of this action as a class action.

72. Injunctive and Declaratory Relief. Fed. R. Civ. P. 23(b)(2). Lumber Liquidators' misrepresentations are uniform as to all members of the Class. Lumber Liquidators has acted or refused to act on grounds that apply generally to the Class, so that final injunctive relief or declaratory relief is appropriate with respect to the Class as a whole.

COUNT I
BREACH OF EXPRESS WARRANTY
(On Behalf of Plaintiff And All Classes)

73. Plaintiff incorporates all preceding factual allegations as if fully set forth herein.

74. Lumber Liquidators warranted that its flooring was free of defects when it sold those products to Plaintiff and other Class members as described in this Complaint. Lumber Liquidators further represented that its flooring products complied with CARB and EU formaldehyde standards and all applicable laws and regulations. Plaintiff and other Class members reasonably relied upon Lumber Liquidators' representations and/or omissions.

75. Lumber Liquidators' warranties became part of the basis of the bargain.

76. Lumber Liquidators breached its warranties by:

- a. Manufacturing, selling and/or distributing flooring that exceeds the CARB and EU formaldehyde standards;
- b. Manufacturing, importing, selling and/or distributing flooring that fails to comply with all applicable laws and regulations; and
- c. Refusing to honor the express warranty by refusing to properly repair or replace the defective flooring.

77. All conditions precedent to seeking liability under this claim for breach of express warranty have been performed by Plaintiff and other Class members who paid for the Products at issue.

78. Any attempt by Defendants to disclaim its express warranties is both procedurally and substantively unconscionable, did not conform to the law and was not conspicuous as required by law.

79. Lumber Liquidators was on notice regarding the excessively high levels of formaldehyde in its flooring because of the numerous blog postings, consumer complaints and lawsuits asserted against Defendant, as well as the March 1, 2015 *60 Minutes* report.

80. Thus, Lumber Liquidators has had actual and/or constructive notice that its express warranty were and are false and to date has taken no action to remedy its breaches of express warranty.

81. Defendant's breaches of warranty have caused Plaintiff and Class members to suffer injuries, paying for falsely labeled products, and entering into transactions they would not have entered into for the consideration that Plaintiff and Class members paid. As a direct and proximate result of Defendant's breaches of warranty, Plaintiff and Class members have suffered damages and continue to suffer damages, including economic damages in terms of the difference between the value of the Products as promised and the value of the Products as delivered.

82. As a result of the breach of these warranties, Plaintiff and Class members are entitled to legal and equitable relief including damages, costs, attorneys' fees, rescission, and/or other relief as deemed appropriate, for an amount to compensate them for not receiving

the benefit of their bargain.

COUNT II
BREACH OF IMPLIED WARRANTIES
(On Behalf of Plaintiff And All Classes)

83. Plaintiff incorporates all preceding factual allegations as if fully set forth herein.

84. At all times relevant hereto, there was a duty imposed by law which requires that a manufacturer or seller's product be reasonably fit for the purposes for which such products are used and that the product be acceptable in trade for the product description.

85. Defendants breached this duty by selling flooring to Plaintiff and the other members of the Class that was not merchantable.

86. Defendants were notified that its product was not merchantable within a reasonable time after the defect manifested itself to Plaintiff and the members of the Class.

87. Any attempt by Defendants to disclaim its express warranties is both procedurally and substantively unconscionable, did not conform to the law and was not conspicuous as required by law.

88. As a result of the non-merchantability of Lumber Liquidators' flooring described herein, Plaintiff and other members of the Class sustained a loss or damages.

COUNT III
THE MAGNUSON-MOSS WARRANTY ACT

89. Plaintiff incorporates all preceding factual allegations as if fully set forth herein.

90. Plaintiff and the other Class members are "consumers" within the meaning of the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301(3).

91. Lumber Liquidators is a "supplier" and "warrantor" within the meaning of 15 U.S.C. §§ 2301(4)-(5).

92. Lumber Liquidators flooring purchased separate from the initial construction of the structure constitutes a "consumer product" within the meaning of 15 U.S.C. § 2301(1).

93. Lumber Liquidators' express warranties and written affirmations of fact regarding the nature of the flooring, including that the flooring was free from defects and was

in compliance with CARB and EU formaldehyde standards and all other applicable laws and regulations, constitute written warranties within the meaning of 15 U.S.C. § 2301(6).

94. Lumber Liquidators breached their warranties by:

- a. Manufacturing, selling and/or distributing flooring that exceeds the CARB formaldehyde standards;
- b. Manufacturing, importing, selling and/or distributing flooring that fails to comply with all applicable laws and regulations; and
- c. Refusing to honor the express warranty by refusing to properly repair or replace the defective flooring.

95. Lumber Liquidators' breach of its express warranties deprived Plaintiff and the other Class members of the benefits of their bargains.

96. Any attempt by Defendant to disclaim its express warranties is both procedurally and substantively unconscionable, did not conform to the law and was not conspicuous as required by law.

97. As a direct and proximate result of Lumber Liquidators' breaches of its written warranties, Plaintiff and the other Class members sustained damages in an amount to be determined at trial. Lumber Liquidators' conduct damaged Plaintiff and the other Class members, who are entitled to recover damages, consequential damages, specific performance, diminution in value, costs, attorneys' fees, rescission, and/or other relief as appropriate.

COUNT IV
NEGLIGENCE
(On Behalf of Plaintiff And All Classes)

98. Plaintiff incorporates all preceding factual allegations as if fully set forth herein.

99. Lumber Liquidators were under a legal duty to exercise reasonable care to design, manufacture and distribute Chinese Flooring that would conform to all industry standards and codes.

100. Lumber Liquidators breached its legal duty and was negligent in its design and/or manufacturer of its Chinese Flooring described herein. Lumber Liquidators' design

and/or manufacture of the Chinese Flooring is inherently defective, in that the flooring emits unsafe levels of formaldehyde, causing damage to Plaintiff's and the Class Members' person and residences/structures as well as other property throughout the residences/structures.

101. As a result of the defects described herein, Plaintiff and Class Members' homes contain unsafe and dangerous levels of formaldehyde gas.

102. As a result of Lumber Liquidators' practices, Plaintiff's and the Class Members' residences contain defective and dangerous Chinese Flooring that require replacement as well as repair of damages and other property incidental thereto.

103. Lumber Liquidators knew or, in the exercise of reasonable care, should have known that its Chinese Flooring was negligently designed and/or manufactured to allow for unsafe levels of formaldehyde emissions which will cause damage to Plaintiff's and Class Member's persons, wellbeing, and property and would not perform as expected by Plaintiff, Class Members and/or a reasonable consumer.

104. Lumber Liquidators knew or, in the exercise of reasonable care, should have known that its Chinese Flooring was negligently designed and/or manufactured.

105. Lumber Liquidators possessed the knowledge to cure the defect in the Chinese Flooring, but it continued to sell, to market and to advertise defective Chinese Flooring.

106. Plaintiff disclaimed any purported Limited Warranties.

107. As a direct, proximate, reasonably probable and foreseeable consequence of Lumber Liquidators' negligent acts and/or omissions in connection with its design, manufacture and distribution of its Chinese Flooring, Plaintiff and the Class Members have suffered and will continue to suffer loss and damage.

COUNT V
FRAUDULENT MISREPRESENTATION

108. Plaintiff incorporates all preceding factual allegations as if fully set forth herein.

109. Lumber Liquidators falsely and fraudulently represented to Plaintiff and other Class members that Lumber Liquidators' products would be free from defects and fit for their customary and normal use. Lumber Liquidators also falsely and fraudulently represented to

Plaintiff and other Class members that Lumber Liquidators' products complied with CARB and EU formaldehyde standards and all applicable laws and regulations. Plaintiff and other Class members reasonably relied upon Lumber Liquidators' representations.

110. When said representations were made by Lumber Liquidators, upon information and belief, they knew those representations to be false and they willfully, wantonly, and recklessly disregarded whether the representations were true.

111. Lumber Liquidators made these representations with the intent of defrauding and deceiving the Plaintiff, the Class members and/or the consuming public, all of which evinced reckless, willful, indifference to the safety and welfare of the Plaintiff and the Class members.

112. At the time the aforesaid representations were made by Lumber Liquidators, Plaintiff and the Class members were unaware of the falsity of said representations and reasonably believed them to be true.

113. In reliance upon said representations, the Plaintiff's and Class members' properties were built using Lumber Liquidators' Chinese Flooring, which were installed and used on Plaintiff's and the Class members' properties thereby sustaining damage and injury and/or being at an increased risk of sustaining damage and injury in the future.

114. Lumber Liquidators knew and was aware, or should have been aware, that Lumber Liquidators' Chinese Flooring was defective, did not comply with CARB standards, and was not fit for their customary and normal use.

115. Lumber Liquidators knew, or should have known, that Lumber Liquidators' Chinese Flooring had a potential to, could, and would cause severe damage and injury to property owners and their personal property such as HVAC and refrigerator systems.

116. Lumber Liquidators brought its Chinese Flooring to the market and acted fraudulently, wantonly, and maliciously to the detriment of the Plaintiff and the Class members.

117. By reason of the foregoing, Plaintiff and the Class members suffered, and continue to suffer, financial damage and injury.

COUNT VI
NEGLIGENT MISREPRESENTATION

118. Plaintiff incorporates all preceding factual allegations as if fully set forth herein.

119. Lumber Liquidators made representations about the Chinese Floorings' formaldehyde emissions levels and compliance with CARB standards to Plaintiff, Class members, and their agents or predecessors, as set forth in this complaint.

120. Those representations were false.

121. When Lumber Liquidators made the representations, it knew they were untrue and that the Products were not CARB compliant or it had a reckless disregard for whether they were true, or it should have known they were untrue.

122. Lumber Liquidators knew that Plaintiff and other Class members were relying on the representations regarding the formaldehyde emissions and compliance with CARB standards.

123. In reliance upon the representations, Plaintiff and other Class Members purchased the Chinese Flooring and installed it in Plaintiff's and Class members' homes.

124. As a direct and proximate result of Lumber Liquidators negligent misrepresentations, Plaintiff and Class members have been damaged as set forth in this Complaint.

125. As a direct and proximate result of the foregoing, Plaintiff and the Class Members suffered, and continue to suffer, financial damage and injury, and are entitled to all damages, including punitive damage, in addition to costs, interest and fees, including attorneys' fees, as allowed by law.

COUNT VII
FRAUDULENT OMISSION/CONCEALMENT

126. Plaintiff incorporates all preceding factual allegations as if fully set forth herein.

127. Lumber Liquidators knew or should have known that the Chinese Flooring was defective in design, did not comply with CARB standards, emitted and off-gased unsafe levels of formaldehyde, were not fit for their ordinary and intended use, and performed in accordance

with neither the advertisements, marketing materials and warranties disseminated by Lumber Liquidators nor the reasonable expectations of ordinary consumers.

128. Lumber Liquidators fraudulently concealed from and/or intentionally failed to disclose to Plaintiff and the Class that the Chinese Flooring is defective and does not comply with CARB standards for formaldehyde.

129. Lumber Liquidators had exclusive knowledge of the defective and noncompliant nature of the Chinese Flooring at the time of sale. The formaldehyde emission levels and latent defects are not something that Plaintiff or Class members, in the exercise of reasonable diligence, could have discovered independently prior to purchase, because it is not feasible.

130. Lumber Liquidators had the capacity to, and did, deceive Plaintiff and Class members into believing that they were purchasing flooring free from defects and compliant with CARB standards for formaldehyde.

131. Lumber Liquidators undertook active and ongoing steps to conceal the defect and high formaldehyde levels. Plaintiff is aware of nothing in Lumber Liquidators' advertising, publicity or marketing materials that disclosed the truth about the defect or violation of CARB standards for formaldehyde, despite Lumber Liquidators' awareness of the problem.

132. The facts concealed and/or not disclosed by Lumber Liquidators to Plaintiff and the Class members are material facts in that a reasonable person would have considered the formaldehyde levels important in deciding whether to purchase (or to pay the same price for) the flooring from their builders.

133. Lumber Liquidators intentionally concealed and/or failed to disclose material factors about compliance with the CARB standards and formaldehyde levels for the purpose of inducing Plaintiff and the Class to act thereon.

134. Plaintiff and the Class justifiably acted or relied upon the concealed and/or nondisclosed facts about formaldehyde emissions to their detriment, as evidenced by their purchase of the Chinese Flooring.

135. Plaintiff and Class members suffered a loss of money in an amount to be proven at trial as a result of Defendant's fraudulent concealment and nondisclosure because: (a) they would not have purchased the Chinese Flooring on the same terms if the true facts concerning the defective and noncompliant flooring had been known; (b) they paid a price premium due to fact that the flooring would be free from defects and comply with CARB standards; and (c) the flooring did not perform as promised and did not comply with CARB standards. Plaintiff also would have initiated this suit earlier had the defect and violation of the CARB standard been disclosed to him.

136. By reason of the foregoing, Plaintiff and the Class members suffered, and continue to suffer, financial damage and injury.

COUNT VIII
UNFAIR AND DECEPTIVE ACTS OR PRACTICES
IN VIOLATION OF IOWA CONSUMER FRAUD LAW § 714H
(On Behalf of Plaintiff and the Iowa and Nationwide Classes)

137. Plaintiff incorporates all preceding factual allegations as if fully set forth herein.

138. Iowa Code Ann. § 714H.3 makes unlawful any, "unfair practice, deception, fraud, false pretense, or false promise, or the misrepresentation, concealment, suppression, or omission of a material fact, with the intent that others rely . . . [on it] . . . in connection with the advertisement, sale, or lease of consumer merchandise."

139. Defendant's conduct, including but not limited to, the marketing, promoting, distribution and sale of the Chinese Flooring as described throughout this Complaint was unfair, unlawful, and a fraudulent business practice in violation of Iowa Code Ann. § 714H.3, and materially similar consumer protection statutes of other states.

140. Defendant's concealment, intentional and negligent misrepresentation, and breach of express and implied warranties constitute unfair, unlawful, and fraudulent business acts and practices in violation of Iowa Code Ann. § 714H.3.

141. Defendant committed unfair or deceptive acts and practices by misrepresenting

that its Products complied with all CARB standards for formaldehyde emissions, when, in fact, they violated the CARB standards as well as Defendant's express representations because the Products emit and off-gas unsafe and damaging levels of formaldehyde.

142. Defendant committed unfair or deceptive acts and practices through misrepresentations about the operation of its warranties. These include, but are not limited to, warranting that its Products complied with all CARB standards for formaldehyde emissions, when, in fact, they violated the CARB standards as well as Defendant's express and implied warranties because the Products emit and off-gas unsafe and damaging levels of formaldehyde.

143. Defendant engaged in unconscionable acts and practices by continuing to market the Flooring after it knew or had reason to know the Flooring is defective, does not comply with CARB standards, and emits and off-gases unsafe levels of formaldehyde. Because the Flooring was not suitable for its ordinary use, Defendant had reason to know that:

- a. The Flooring was priced substantially in excess of the price for similar products.
- b. Plaintiff and Class members would not substantially benefit from the Flooring.
- c. Defendant knowingly made misleading statements of opinion, upon which Plaintiffs and Class members were likely to rely to their detriment.

144. By selling Products throughout the State of Iowa and making representations regarding its product, the Defendant has affected commerce and trade within the State.

145. Defendant engaged in unfair or deceptive acts or practices in violation of Iowa Code Ann. § 714H.3 when, in selling and advertising the Flooring, Defendants failed to give Plaintiffs and Class Members adequate warnings and notices regarding the defect and the formaldehyde levels despite the fact that Defendant knew or should have known of this defect and its Floorings' noncompliance with the CARB standards, with the intent that Plaintiffs and the Class Members would rely upon Defendant's failure to disclose the defect when

purchasing the Flooring. Thus, Defendant knew of the defective nature of the Flooring and yet continued to sell and distribute them to Class Members and concealed its known defects from them. Defendant's acts and omissions possessed the tendency or capacity to mislead or create the likelihood of deception.

146. Further, Defendant did not comply with Iowa Code Ann. § 714H.3(2), which states that a person shall not engage in any practice or act that is in violation of Section 714.16, subsection 2, paragraphs "b" through "n". Section 714.16, subsection 2, paragraph "m" states:

m. It is an unlawful practice for a person to advertise the sale of wood products without disclosing information which may affect the price of the product.

An advertisement for all plywood and dimension lumber products shall include the grade and species, in accordance with federal products standards 1 and 20, and the measure. The products advertised shall also be labeled according to the federal products standards.

An advertisement for any other wood product shall include the grade and species, according to the applicable federal product standards, and the measure. These products need not be labeled.

An advertisement for any wood products must also include the following:

...

(2) Whether the wood product consists of seconds, culls, shop grade, or ungraded material.

Use of any contrived or unrecognized grading standard is prohibited, and any factors affecting the final delivered price of the products shall be disclosed and displayed in a conspicuous place.

This paragraph applies only to persons who offer wood products for sale in the ordinary course of business, except that this paragraph does not apply to any person who produces rough-sawed lumber, commonly referred to as native lumber, in this state. For purposes of this paragraph:

"Dimension lumber" means softwood lumber nominally referred to as "two inch by four inch" or greater.

"Labeling" means all labels and other written, printed, branded, or graphic matter upon any building material.

"Plywood" means a structural material consisting of sheets or chips of wood glued or cemented together.

“Wood products” means any wood products derived from trees as a result of any work or manufacturing process upon the wood, and intended primarily for use as a building material.

147. Because of Defendant's violation of Iowa Code Ann. § 714H.3 and 714.16(2)(m), Plaintiffs and the Class suffered damages, including but not limited to any damage to underlying structures or adjoining property caused by the unsafe and damaging levels of formaldehyde in the Chinese Flooring, and any other compensatory or consequential damages.

148. As a direct and proximate result of these unfair, deceptive and unconscionable commercial practices, Plaintiffs and the Class Members have been damaged, in that their Flooring does not comply with CARB standards, emits unsafe levels of formaldehyde gas causing damage to the floor and, upon information and belief, other building components of Plaintiffs' and Class Members' homes and other structures, including, but not limited to, HVAC systems, refrigerators, and components installed after initial construction, and Plaintiff and Class Members are entitled pursuant to Iowa Code Ann. § 714.H5 to recover actual damages, treble damages and attorney's fees.

149. Plaintiffs and Class Members demand all damages, in addition to costs, interest and fees, including attorney's fees, to which they are entitled pursuant Iowa Code Ann. § 714H.5.

150. Plaintiffs have sought and received approval from the Iowa Attorney General's office pursuant to Iowa Code Ann. § 714H.7. See Exhibit 1, attached hereto.

REQUEST FOR RELIEF

WHEREFORE, Plaintiff, individually and on behalf of the other members of the Classes proposed in this Complaint, respectfully requests that the Court enter judgment in his favor and against Defendants, as follows:

A. Declaring that this action is a proper class action, certifying the Class as

requested herein, designating Plaintiff as Class Representative and appointing the undersigned counsel as Class Counsel;

B. Ordering Defendants to pay actual damages (and no less than the statutory minimum damages) and equitable monetary relief to Plaintiff and the other members of the Class and Subclasses;

C. Ordering Defendants to pay punitive damages, as allowable by law, to Plaintiff and the other members of these Classes;

D. Ordering Defendants to pay statutory damages, as allowable by the statutes asserted herein, to Plaintiff and the other members of these Classes;

E. Awarding injunctive relief as permitted by law or equity, including enjoining Defendants from continuing the unlawful practices as set forth herein, and ordering Defendants to engage in a corrective advertising campaign;

F. Ordering Defendants to pay attorneys' fees and litigation costs to Plaintiff and the other members of the Classes;

G. Ordering Defendants to pay both pre- and post-judgment interest on any amounts awarded; and

H. Ordering such other and further relief as may be just and proper.

JURY DEMAND

Plaintiff demands a trial by jury of all claims in this Complaint that are so triable.

Dated: June 2, 2015

/s/ Ben Arato
ROB TULLY AT0008059
BEN ARATO AT00010863
LAW OFFICES OF ROB TULLY, P.C.
2501 Westown Parkway
Suite 1201
West Des Moines, Iowa, 50266
Telephone: (515) 221-2600
Facsimile: (515) 225-7549
ben@robtullylaw.com

ATTORNEYS FOR PLAINTIFF

THOMAS J. MILLER
ATTORNEY GENERAL



ADDRESS REPLY TO:
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Des Moines, Iowa 50319

Telephone: 515-281-5926
Toll Free: 888-777-4590 (In Iowa)
Fax: 515-281-6771
www.iowaAttorneyGeneral.gov

CONSUMER PROTECTION DIVISION

Department of Justice

May 29, 2015

Ben Arato
Law offices of Rob Tully, Inc.
2501 Westown Parkway, Suite 1201
West Des Moines, IA 50266

Re: Lumber Liquidators

Dear Mr. Arato:

Thank you for your correspondence of May 20, 2015, with which you included a copy of a draft Complaint planned to be filed in the above matter. The Complaint is in the form of a class action lawsuit and, in part, includes allegations of violations of Iowa Code chapter 714H, the *Private Right of Action for Consumer Frauds Act*.

Pursuant to chapter 714H, you requested the approval of this office prior to filing the action, as Iowa Code section 714H.7 requires the approval of the Attorney General prior to filing.

Please be advised that the Attorney General hereby approves the filing of the Class Action Complaint. In addition, please be aware of the requirement to file a copy of the Class Action Complaint with this office once it has been filed in court, pursuant to Iowa Code section 714H.6.

My direct telephone number is 515-281-8772 and my e-mail is:
bill.brauch@iowa.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "William L. Brauch".

William L. Brauch
Special Assistant Attorney General
Director-Consumer Protection Division

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM)

I. (a) PLAINTIFFS

DENNIS CHAPMAN, individually and on behalf of all others similarly situated

(b) County of Residence of First Listed Plaintiff Carroll
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)
Law Offices of Rob Tully, P.C.
2501 Westown Parkway, Suite 1201
West Des Moines, IA, 50266

DEFENDANTS

LUMBER LIQUIDATORS, INC; LUMBER LIQUIDATORS LEASING, LLC, LUMBER LIQUIDATORS HOLDING, INC.; LUMBER LIQUIDATORS SERVICES, LLC

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- | | |
|--|--|
| <input type="checkbox"/> 1 U.S. Government Plaintiff | <input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) |
| <input type="checkbox"/> 2 U.S. Government Defendant | <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III) |

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input checked="" type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS			
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- | | | | | | |
|---|---|--|---|--|---|
| <input checked="" type="checkbox"/> 1 Original Proceeding | <input type="checkbox"/> 2 Removed from State Court | <input type="checkbox"/> 3 Remanded from Appellate Court | <input type="checkbox"/> 4 Reinstated or Reopened | <input type="checkbox"/> 5 Transferred from Another District (specify) | <input type="checkbox"/> 6 Multidistrict Litigation |
|---|---|--|---|--|---|

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 usc 1332
Brief description of cause:

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ 5,000,000.00 CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE _____ DOCKET NUMBER _____

DATE 06/03/2015 SIGNATURE OF ATTORNEY OF RECORD /s/ Ben Arato

FOR OFFICE USE ONLY

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the six boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.