

3. The Defendants manufactured, imported and sold wood veneer and/or laminated wood flooring which contains excessive levels of formaldehyde which is known as a human carcinogen, and the Defendants' wood veneer and/or laminated wood flooring contains toxic formaldehyde emissions that greatly exceed industry standards and the standards and product labels for which the Defendants represent the products conform and comply.

4. The Defendants manufactured, imported and sold wood veneer and/or laminated wood flooring that is subject to premature, unacceptable and excessive warping, cupping, and shrinking.

5. That as a result of the Defendants' misconduct in manufacturing, selling and distributing a defective product, the product is much less valuable and the Plaintiff would have paid much less for it if purchased at all.

II. The Parties

6. Plaintiff, Thalia Vincent, is a resident of Georgetown County, State of South Carolina. She purchased from a Lumber Liquidators outlet in South Carolina approximately 1,675 square feet of Morning Star Bamboo wood veneer and/or laminate wood flooring which was manufactured in China and which contains toxic levels of formaldehyde, a known carcinogen, and the wood veneer and/or laminate wood flooring installed throughout her home and has prematurely, unacceptably and excessively warped, cupped and shrunk.

7. Defendant Lumber Liquidators, Inc. is a Delaware corporation with its principal place of business at 3000 John Deere Road, Toano, Virginia, 23168 and at all times relevant herein, engaged in the marketing, sale and delivery of its products in the State of South Carolina.

8. 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.

9. Defendant Lumber Liquidators Holdings, Inc. is a Delaware corporation with its principal place of business at 3000 John Deere Road, Toano, Virginia, 23168.

10. 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.

11. Collectively, Defendants manufacture wood veneer and/or laminated wood flooring and distribute and sell flooring through approximately 279 retail stores the Defendants operate throughout the United States, including South Carolina.

12. The Defendants act in concert controlling each other and acting as agents for each other and their corporate interests are amalgamated such as they are not legally distinct entities.

III. Jurisdiction and Venue

13. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1332(d), because

- i. members of the Plaintiff Class are citizens of South Carolina and Defendants are, upon information and belief, citizens of Delaware, Virginia, or otherwise not citizens of South Carolina;
- ii. there are 100 or more class members; and

iii. the aggregate amount in controversy will exceed \$5,000,000.

14. The Court has personal jurisdiction over Defendants because they transact business in South Carolina and a substantial portion of the alleged wrongdoing occurred in South Carolina.

15. Venue is proper in the Charleston Division of the District of South Carolina pursuant to 28 U.S.C. § 1391 because a substantial part of the events or omissions giving rise to the claims at issue in this Complaint arose in this District and Division and Defendants are subject to the Court's personal jurisdiction with respect to this action.

IV. Factual Allegations

16. The Defendants operate approximately 279 retail stores in approximately 46 states selling wood veneer and/or laminate wood flooring directly to homeowners or contractors acting on the homeowners behalf.

17. The Defendants manufacture and/or source wood flooring material in and from China.

18. Defendants have manufactured, labeled and sold wood veneer and/or laminate wood flooring as being compliant with "CARB regulations in the State of California." CARB is an acronym for California Air Resources Board, an entity that has promulgated safety standards for the emission of formaldehyde for products sold in California.

19. Defendants' wood veneer and/or laminated wood flooring contains dangerous levels of formaldehyde gas that exceed the "'CARB' regulations in the State of California" and the standards promulgated in the Toxic Substances Control Act, 15 U.S.C. 2601 et. Seq. (Title VI-Formaldehyde Standards of Composite Wood Products) and are hazardous to

human health, and is not the “environmentally conscientious” flooring product and/or the wood flooring product it represented to the Plaintiff and other members of the class.

20. Formaldehyde gas can cause cancer, asthma, chronic respiratory irritation and other ailments including skin and breathing problems.

21. Formaldehyde is the sort of toxic substance to which people may be exposed without knowing they are at risk of the flooring’s emitting toxic cancer-causing fumes.

22. The Defendants wood veneer and/or laminated wood flooring manufactured and/or sourced in China is not what it purports to be and contains dangerous levels of formaldehyde gas which exceed the “CARB regulations in the State of California” and the standards of the Toxic Substance Control Act, 15 U.S.C. § 2601 et. Seq. and the Formaldehyde Standard Act 15 U.S.C. § 2697.

23. As such, the wood veneer and/or laminated wood flooring exceeding formaldehyde standards and sold to customers, including Plaintiff and others similarly situated poses great health risks.

24. The Defendants’ wood veneer and/or laminated wood flooring manufactured and/or sourced in China prematurely, unacceptably and excessively warps, cups and shrinks.

25. Defendants’ marketing materials for their wood veneer and/or laminated wood flooring contain false and misleading information relating to compliance with California standards and relating to its prematurely, unacceptably and excessively warping, cupping and shrinking and the marketing material was designed to increase sales of the products at issue.

26. Defendants deceptively manufactured, labeled and sold laminate flooring

that exceeds applicable formaldehyde standards and flooring that warps, cups, and shrinks; thus the flooring has no monetary value and is worthless.

27. The Defendants, by manufacturing, distributing and selling this wood veneer and/or laminated wood flooring, have violated the building code and industry standards and statutes and are negligent and have breached express and implied warranties causing the Plaintiff and those similarly situated damages to include the full purchase price paid for the wood veneer and/or laminate wood flooring and other damages to be proven at trial.

V. Class Action Allegations

28. Each and every allegation contained in the preceding paragraphs is re-alleged and reasserted.

29. Plaintiff brings this action on her behalf and on behalf of the proposed Class pursuant to Federal Rules of Civil Procedure 23 and the requirements of FRCP23 (a), (b)(2), (b)(3) and (b)(4) are met with respect to the class defined:

All persons and entities who own structures with installed wood flooring from Lumber Liquidators that was sourced, manufactured or processed in China.

30. Excluded from the Class are:

- i. Defendants and any entities in which Defendants have a controlling interest;
- ii. Any entities in which Defendants' officers, directors, or employees are employed;
- iii. The Judge to whom this case is assigned and any member of the Judge's immediate family;
- iv. All persons or entities that properly execute and timely file a request for exclusion from the Class; and

v. The attorneys of record in this case.

31. The Class includes individuals who are members of a “South Carolina Subclass “ as defined as: “All members of the Class who were residents of South Carolina at their time of purchases.”

32. Plaintiff reserves the right to modify the Class and Subclass definitions after discovery and at any time up to and including trial.

33. This action satisfies the numerosity, commonality, typicality, adequacy, predominance, and superiority requirements of the Federal Rules of Civil Procedure Rule 23(a)(1)-(4) and (b)(1).

VI. Numerosity

34. The Class is composed of at least thousands of individuals who purchased laminate wood flooring from the Defendants and the joinder into one action is impractical. The identity of Class members is readily ascertainable through Defendants’ billing records, invoices and/or documents. Class members may be informed of the pendency of this Class action by a combination of direct mail and public notice, or other means.

VII. Commonality

35. The questions of law and fact common to the Class predominate over questions affecting only individual Class members, and include, but are not limited to, the following:

- i. Whether the products at issue were improperly labeled as a matter of law and violated California CARB emissions standards and Formaldehyde Standards of Composite Wood Products in the Toxic Substances Control Act, 15 U.S.C. 2601 et. seq., and emitted excessive levels of formaldehyde;

- ii. Whether the products at issue are subject to premature failure well in advance of their useful life;
- iii. Whether the products at issue are not suitable for use as a long-term flooring product;
- iv. Whether Defendants made unlawful and misleading representations and warranties with respect to its products sold to consumers;
- v. Whether Defendants represented and warranted that their products complied with the label description;
- vi. Whether Defendants breached implied warranties;
- vii. Whether Defendants breached express warranties;
- viii. Whether Defendants were negligent in its manufacturing, labeling and advertising of their wood laminate flooring;
- ix. Whether Defendants failed to warn customers about the dangers posed by its wood laminate flooring and whether material facts were omitted or concealed;
- x. Whether Defendants unlawfully sold their wood laminate flooring in violation of the laws of South Carolina;
- xi. Whether Plaintiff and the Class have been damaged by the Defendants actions and the amount of the damages of the Class; and
- xii. Whether Plaintiff and the Class are entitled to equitable relief and/or other relief, and if so, the nature of such relief.

VIII. Typicality

36. Plaintiff's claims are typical of the claims of the members of the Class because the Plaintiff bought Defendants' wood laminate flooring, and Plaintiff Thalia Vincent specifically bought Chinese-made flooring products. Plaintiff's claims arise from the same practices and course of conduct that give rise to the other Class members' claims and are based

on the same legal theories.

IX. Adequacy of Representation

37. Plaintiff is an adequate representative of the Class and will fully and adequately assert and protect the interests of other Class members and Plaintiff's interests do not conflict with the interests of the members of the Class that Plaintiff seeks to represent. Plaintiff is represented by experienced and able counsel who are experienced and qualified in prosecuting class action cases, and Plaintiff's counsel has no interests contrary to or conflicting with the interests of Class members.

X. Predominance and Superiority

38. The class action is the best available method for the efficient adjudication of this litigation because questions of law and fact common to the members of the Class predominate over questions affecting individual members. Individual litigation of the Plaintiff Class or individual joinder of claims would be impractical and individual litigation would be unduly burdensome to the courts. Individual litigation has the potential to result in inconsistent or contradictory judgments. A class action in this case presents fewer management problems and provides the benefits of single adjudication, economies of scale, and comprehensive supervision by a single court. Class treatment of common questions of law and fact would also be superior to multiple individual actions or piecemeal litigation in that class treatment will conserve the resources of the Court and the litigants, and will promote the consistency and efficiency of adjudication.

XI. Causes of Action

**COUNT ONE
(Negligence/Gross Negligence)**

39. Each and every allegation contained in the preceding paragraphs is re-alleged and reasserted.

40. The Defendants owed a duty to the Plaintiff and all Class Members to manufacture and sell flooring that was free from excessive levels of formaldehyde that would not warp, cup or shrink and complied with the building code, industry standards and statutes and to use reasonable care in making, marketing, labeling and advertising their laminate wood flooring.

41. Defendants breached their duty of care to Plaintiff and Class members by negligently, grossly negligently, carelessly, and recklessly designing, manufacturing, selling, labeling, and advertising their laminate wood flooring including but not limited to the following particulars;

- a. In designing, manufacturing and selling laminate wood flooring that violated the building code, industry standards and statutes;
- b. In designing, manufacturing and selling laminate wood flooring that prematurely, unacceptably and excessively warps, cups and shrinks;
- c. In failing to ensure safe levels of formaldehyde emissions in Chinese laminate wood flooring;
- d. In failing to adequately warn of the risks that were known or should have been known with Chinese laminate wood flooring; and
- e. In failing to communicate truthful and accurate information about its products including disclosure and non-disclosure of product information;

42. Defendants' negligent, gross negligent, careless, and reckless conduct, as set forth above, has proximately caused damages to the Plaintiff and the other Class members and potentially damaged other building elements and components of their buildings, and the Plaintiff and other Class members are entitled to an award of actual, consequential, direct, indirect, special and punitive damages against the Defendants.

COUNT TWO
(Unjust Enrichment)

43. Each and every allegation contained in the preceding paragraphs is re-alleged and reasserted.

44. A benefit was conferred to these Defendants by the Plaintiff and Class members' purchase of the Chinese-made laminate wood flooring.

45. In seeking to sell their laminate wood flooring to Plaintiff and the other Class members, Defendants made unfair, deceptive, and false representations and withheld material information about the safety of their Chinese-made laminate wood flooring.

46. Defendants have been unjustly enriched by reaping substantial profits from payments Plaintiff and the other Class members made for laminate wood flooring that has caused the Plaintiff and Class members' damages.

47. Defendants' profits would have been reduced but for their wrongful conduct. In equity and good conscience, it would be unjust and inequitable to permit Defendants to retain the benefit they obtained from Plaintiff and the other Class members and Defendants must pay restitution to the Plaintiff and Class members for their unjust enrichment through the disgorgement of and/or the imposition of a constructive trust upon all sales and/or profits, benefits or other compensation obtained by these defendants for their wrongful conduct.

COUNT THREE
(Breach of Implied Warranties)

48. Each and every allegation contained in the preceding paragraphs is re-alleged and reasserted.

49. Defendants manufactured and sold the Chinese-made laminate wood

flooring, which Defendants knew or should have known was not of average quality within the description and the Defendants Chinese-made laminate wood flooring was not reasonably fit for the purpose for which such products are used, not fit for its ordinary purpose, was not adequately labeled, and was unlawful for sale pursuant to The Toxic Substance Control Act, 15 U.S.C., 2601, et seq.

50. The Defendants breached their duties owed to the Plaintiff and the Class by selling Chinese-made laminate wood flooring that was not merchantable and could not pass without objection in the trade at the time of the sale.

51. As a result of the Defendants' breach of implied warranties, the Plaintiff and the other Class members suffered damages, entitling the Plaintiff and Class members to actual damages, compensatory damages, equitable relief, recession costs, and attorneys' fees as a result of the non-merchantability of the Defendants' Chinese-made laminate flooring.

COUNT FOUR
(Breach of Express Warranties)

52. Each and every allegation contained in the preceding paragraphs is re-alleged and reasserted.

53. The Defendants warranted that their flooring was free of defect, complied with CARB and EU Formaldehyde standards and all applicable building codes, industry standards, laws and regulations when the Chinese-made laminate wood flooring was sold to the Plaintiff and Class members. The warranty at issue specifically contains the certification that these floors "eco-friendly," "beautiful" and "finely crafted to ensure they're free of defects."

54. These express and written warranties are applicable to the laminate wood flooring sold to the Plaintiff and Class members

55. These warranties became part of the basis of the bargain at the time of sale and transfer to any subsequent owners.

56. Upon information and belief, the warranties at issue, which are applicable to Plaintiff and all Class members, contain the same or similar provisions.

57. Defendants have represented their laminate wood flooring as free from defects through their website, marketing materials and representatives.

58. The defects described above are present when the laminate flooring leaves Defendants' control.

59. Defendants have repeatedly been put on notice of the defects in their laminate flooring

60. Plaintiff has placed Defendants on written notice of defects in her flooring and resultant damages and Defendants have failed to adequately remedy these defects.

61. Plaintiff and Class members have defective laminate flooring in their homes and have not received the value of the flooring bargained for at the time of purchase or at the time of transfer through the sale of the home.

62. The Defendants breached these warranties by manufacturing and selling Chinese-made laminate wood flooring to the Plaintiff and Class that contained defects and did not comply with CARB; and/or the EU formaldehyde standards; and/or the building code and industry standards; and/or laws and regulation.

63. As a result of the Defendants' breach of these express warranties, the Plaintiff and the Class are entitled to actual damages, consequential damages, equitable relief, rescission, voiding of any limitation of warranty cost and attorneys' fees.

COUNT FIVE
(Breach of Violation of Magnuson-Moss Warranty Act)

64. Each and every allegation contained in the preceding paragraphs is re-alleged and reasserted.

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

66. The Defendants are a supplier and warrantor within the meaning of 15 U.S.C. § 2301(4)-(5).

67. The Defendants' flooring was purchased separate for the initial construction of the structure and constitutes a consumer product within the meaning of 15 U.S.C. § 2301(1).

68. The Defendants' express warranties and written affirmation of fact regarding the Chinese-made laminate wood flooring's being free from defects and in compliance with CARB, and EU formaldehyde standards and applicable laws and regulations constitute written warranties within the meaning of 15 U.S.C. § 2301(6).

69. The Defendants breached these warranties by manufacturing, distributing and selling Chinese-made laminate wood flooring that exceeds CARB and EU formaldehyde standards and that prematurely failed and violated applicable laws and regulations. The Defendants refused to honor express warranties by refusing to replace and/or repair the defective flooring.

70. The amount of controversy of Plaintiff's individual claim meets or exceeds the sum or value of twenty-five dollars (\$25.00). In addition, the amount in controversy meets or exceeds the sum or value of fifty thousand dollars (\$50,000.00) exclusive

of interest and costs.

71. As a result of Defendants' violation of the Magnusson-Moss Warranty Act, the Plaintiff and Class members sustained damages and are entitled to recover actual damages, consequential damages, specific performance diminution in value, rescission, costs and attorneys' fees.

**COUNT SIX
(Strict Liability)**

72. Each and every allegation contained in the preceding paragraphs is re-alleged and reasserted.

73. At all relevant times herein, the Defendants were in the business of designing, manufacturing and distributing and sold laminate wood flooring and put Chinese-made laminate wood flooring into the stream of commerce.

74. The Defendants designed, manufactured, distributed and sold Chinese-made laminate wood flooring that was defective, unreasonably dangerous and such defects or dangers could not have been determined through the exercise of reasonable care.

75. The Defendants were aware or should have been aware that feasible alternatives existed that would maintain the utility of the product and eliminate the harm.

76. The Chinese-made laminate wood flooring reached the Plaintiff and Class members in substantially the same condition as when manufactured, distributed and/or sold.

77. The Defendants violated South Carolina Code §15-73-10 by designing, manufacturing, distributing, and selling defective and unreasonably dangerous Chinese-made laminate wood flooring and placing it into the stream of commerce which was purchased by the

Plaintiff and Class members.

78. As a proximate result of the Defendants' conduct, the Plaintiff and Class members are entitled to actual damages, consequential damages, equitable relief, rescission, costs and attorneys' fees.

**COUNT SEVEN
(Negligent Misrepresentation)**

79. Each and every allegation contained in the preceding paragraphs is re-alleged and reasserted.

80. The Defendants knew or should have known of these unacceptable high levels of formaldehyde and failures in this Chinese-made wood flooring product and that their Chinese-made wood flooring would prematurely fail.

81. The Defendants negligently and/or grossly negligently failed to disclose relevant product information including high levels of formaldehyde in their Chinese-made wood flooring product and conditions that would result in premature product failure and negligently and/or grossly negligently represented that these products were free from defect, fit for customary and normal flooring installed in a dwelling and complied with CARB standards and other laws, standards and regulations.

82. That the Defendants knew or should have known about the falsity of their representations and non-disclosures and knew or should have known these false representations and non-disclosures would be relied upon in purchasing the Chinese-made laminate wood flooring.

83. At the time the false representations and non-disclosures were made, the Plaintiff and Class were unaware of the falsities and believed them to be true and relied upon

them in purchasing the Chinese-made laminate wood flooring.

84. That as a result of these Defendants' false representations and non-disclosures, the Plaintiff and the Class members have suffered actual damages, consequential, direct and indirect damages, costs and attorneys' fees.

**COUNT EIGHT
(Declaratory Relief)**

85. Each and every allegation contained in the preceding paragraphs is re-alleged and reasserted.

86. The Plaintiff and Class members bring this claim pursuant to 28 U.S.C. § 2201.

87. The Defendants have acted or refused to act on grounds that apply generally to the Class, so that injunctive relief or corresponding declaratory relief is appropriate with respect to the Class as a whole with the meaning of FRCP 23(b)(2).

88. The Plaintiff and the Class seek a declaration that:

- a. The Chinese-made laminate wood flooring has a defect that results in unsafe levels of formaldehyde emissions. The defect may not be detectible until after the warranty provided by the Defendants expires;
- b. The Chinese-made laminate wood flooring has a defect in workmanship and material that allows unsafe levels of formaldehyde emissions and premature product failure by excessively and unacceptably cupping, warping and shrinking. The defects may not be detectible until after the warranty provided by the Defendants expires;
- c. All persons or entities who own structures containing Chinese-made laminate wood flooring should be provided the best practicable notice of the defect, the cost shall be borne by the Defendants;
- d. Certain provisions of the Defendants warranty are void as unconscionable;
- e. The Defendants shall re-audit and reassess all prior warranty claims including claims denied in whole or in part, where the denial was based on warranty or other grounds, and pay the full cost of repair and damages; and

- f. The Defendants shall establish an inspection program and protocol under Court supervision, to be communicated to Class members, which will require the Defendants to inspect upon request a Class member's structure to determine if formaldehyde emission levels are safe. Any dispute over coverage shall be adjudicated by a Special Master appointed by the Court and/or agreed to by the parties.

XII. Prayer for Relief

WHEREFORE, Plaintiff, individually and on behalf of all other similarly situated persons, prays for judgment against Defendants as follows:

- a) An order certifying this action to be a proper class action pursuant to Federal Rule of Civil Procedure 23, establishing an appropriate Class the Court deems appropriate, and finding that Plaintiff is a proper representative of the Class;
- b) Actual and/or compensatory damages, restitution and rescission sustained by the Plaintiff and the Class;
- c) For declaratory relief requested;
- d) An order awarding pre-judgment and post-judgment interest;
- e) The costs of this proceeding and attorneys' fees;
- f) Punitive damages in an appropriate amount;
- g) An order permanently enjoining Defendants from continuing their unfair and/or deceptive conduct;
- h) Any further compensatory, injunctive, equitable or declaratory relief including refunds as may be just and proper; and
- i) All other relief as this Court may deem just and proper.

[Signature page to follow]

Date: June 9, 2015

Respectfully submitted,

SEGUI LAW FIRM, PC

By: s/ Phillip W. Segui, Jr.
Phillip W. Segui, Jr.
Federal Bar No.: 6473
864 Lowcountry Blvd., Suite A
Mount Pleasant, SC 29464
(843) 884-1865
psegui@seguilawfirm.com

THE CHAKERIS LAW FIRM

John T. Chakeris
Federal Bar No.: 7236
P.O. Box 397
Charleston, SC 29402
(843) 853-5678
john@chakerislawfirm.com

Attorneys for Plaintiff