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15 Attorneys for Plaintiffs And The Proposed Class

16 **IN THE UNITED STATES DISTRICT COURT**  
 17 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

18 CLARA COLEMAN, an individual, on  
 19 behalf of herself and all others similarly  
 20 situated,

21 Plaintiffs,

22 vs.

23 LUMBER LIQUIDATORS, INC., a  
 24 Delaware corporation,

25 Defendant.

Case No. 2:16-cv-06681

**CLASS ACTION COMPLAINT  
 FOR DAMAGES AND  
 INJUNCTIVE RELIEF**

**DEMAND FOR JURY TRIAL**

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1 Plaintiff Clara Coleman (“Plaintiff”), individually and on behalf of all other  
2 persons similarly situated, by her undersigned attorneys, alleges the following based  
3 upon personal knowledge as to herself and her own acts, and upon information and  
4 belief as to all other matters based upon the investigation conducted by and through  
5 her counsel, which includes, among other things, review and analysis of Lumber  
6 Liquidators Holdings, Inc.’s public documents, Securities and Exchange  
7 Commission (“SEC”) filings, web sites, announcements, analysts’ reports and  
8 investigative journalist reports. Plaintiff believes that substantial evidentiary support  
9 will exist for the allegations set forth herein after reasonable opportunity for  
10 discovery.

### 11 INTRODUCTION

12 1. This is a breach of warranty, fraudulent omission/concealment, and  
13 federal and state statutory class action on behalf of a class consisting of all persons  
14 who reside in United States who purchased from Lumber Liquidators, Inc.  
15 (“Lumber Liquidators,” “the Company,” or “Defendant”) laminate flooring products  
16 manufactured in China under the private-label “Dream Home” brand (the  
17 “Laminates”) concerning Plaintiff’s Third Cause of Action, or alternatively on  
18 behalf of a class of all persons who reside in Illinois for all claims for relief, seeking  
19 to recover damages caused by the Company’s failure to deliver durable flooring that  
20 complied with the specified industry standard contained in the product description.  
21 These products are not durable as represented, and are not merchantable for general  
22 household use because they do not meet the claimed industry standard. Lumber  
23 Liquidators’ failure to disclose that the Laminates were substandard and defective  
24 caused Plaintiff and the proposed class to overpay for the subject flooring.

25 2. Lumber Liquidators is one of the largest specialty retailers of hardwood  
26 flooring and laminates in the United States. The Company sells directly to  
27 homeowners or to contractors acting on behalf of homeowners through its network  
28

1 of approximately 300 retail stores in 46 states, including Illinois.

2 **GENERALIZED FACTUAL ALLEGATIONS**

3 3. Prior to Plaintiff’s purchase Lumber Liquidators extensively advertised  
4 and marketed the Laminates as compliant with an established European abrasion  
5 criteria or class, “AC3,” the primary industry standard for durability of laminate  
6 flooring. However, the Laminates are not AC3-compliant or durable.

7 4. An AC3-rated laminate is considered in the industry as suitable for  
8 general household use, including high traffic areas such as hallways and kitchens.

9 5. Lumber Liquidators, on its website, describes the suitability of AC3-  
10 rated laminates as “Residential, Heavy Traffic: Suitable for all areas.”

11 6. In the United States, laminates with less than an AC3 rating are not  
12 considered suitable for general household use.

13 7. Plaintiff sought, was informed and led to believe that she was buying,  
14 and intended to buy, laminate flooring suitable for general household use.

15 8. The “Dream Home” brand is a private-label brand owned, marketed,  
16 and sold exclusively by Lumber Liquidators. The Dream Home brand includes the  
17 St. James, Ispiri, Kensington Manor, and Nirvana flooring lines.

18 9. From time to time Lumber Liquidators has sourced laminates under the  
19 “Dream Home” brand from plants located in different countries, including the  
20 United States. The Laminates that are the subject to this action are limited to  
21 Lumber Liquidators’ Chinese-manufactured laminates.

22 10. Plaintiff and putative Class Members purchased the Laminates through  
23 one of Lumber Liquidators’ company-owned retail outlets, based upon express oral  
24 representations of the Laminates’ durability, made by Lumber Liquidators sales staff  
25 that the Laminates were “very durable,” “extremely durable,” “scratch resistant,”  
26 “harder than hardwood,” “great for pets,” “pet proof,” could withstand “high traffic  
27 in a residential home,” and had a “30 year warranty.”

28 11. Plaintiff and many putative Class Members had, before purchase of the

1 Laminates, specific concerns regarding the susceptibility of laminate flooring to  
2 scratching from the claws of their pets. Lumber Liquidators told them that they had  
3 nothing to worry about: that the Laminates would stand up to pets, as attested to in a  
4 video posted on its website focused on this very concern.

5 12. Lumber Liquidators has promoted the Laminates through its in-store  
6 management and sales staff, who are trained based on—and are encouraged to  
7 consult and repeat—the product specifications, features, and supposed “advantages”  
8 described on product pages for each of the Laminates on the Lumber Liquidators  
9 web site. Each of the individual Laminates’ product pages describe the Laminate as  
10 meeting the industry AC3 standard.

11 13. The AC3 standard that Lumber Liquidators claims that its Laminates  
12 adhere to is the primary basis upon which:

- 13 a. Its in-store sales staff represents that the Laminates are “durable,” “very  
14 durable,” “extremely durable,” “scratch resistant,” and “harder than  
15 hardwood”;
- 16 b. Its Laminates “landing page” on its website (from which the consumer  
17 can select model-specific web pages containing detailed descriptions of  
18 each model) have represented that the Laminates are each “very  
19 durable” and “very scratch resistant”; and
- 20 c. Lumber Liquidators claims, in its Limited Warranties, that the  
21 Laminates each meet the “industry’s highest standards.”

22 14. Despite Defendant’s pervasive representations, the Laminates are not  
23 AC3 compliant and not durable, as revealed by extensive recent product testing as  
24 part of the investigation leading to this action.

25 15. The failure of the Laminates to meet the industry AC3 standard as  
26 claimed leads to a host of problems for consumers and Plaintiff as set forth below,  
27 including but not limited to:

28 ///

- 1 a. Visible and unsightly scratching in normal everyday use, including but
- 2 not limited to pet traffic;
- 3 b. Wear patterns that expose and deteriorate the photographic paper layer
- 4 of the laminate that is supposed to be protected by the wear layer for
- 5 twenty-five to thirty years;
- 6 c. Chipping;
- 7 d. Fading;
- 8 e. Warping; and
- 9 f. Staining.

10 **The Laminates Are Substantially Similar Products**

11 16. Laminate flooring is considered in the industry and by financial  
12 analysts as a commodity product, in the sense that its construction is relatively  
13 uniform across brands and models, with each seller competing largely on the basis  
14 of price.

15 17. As set forth in greater detail below, the Laminates comprise a single  
16 product, which are substantially similar in every way material to the claims  
17 presented herein. The differences among each model of the Laminates are primarily  
18 cosmetic—designed to meet varying interior decoration preferences of consumers  
19 (including color, style of wood grain image, board width, etc.).

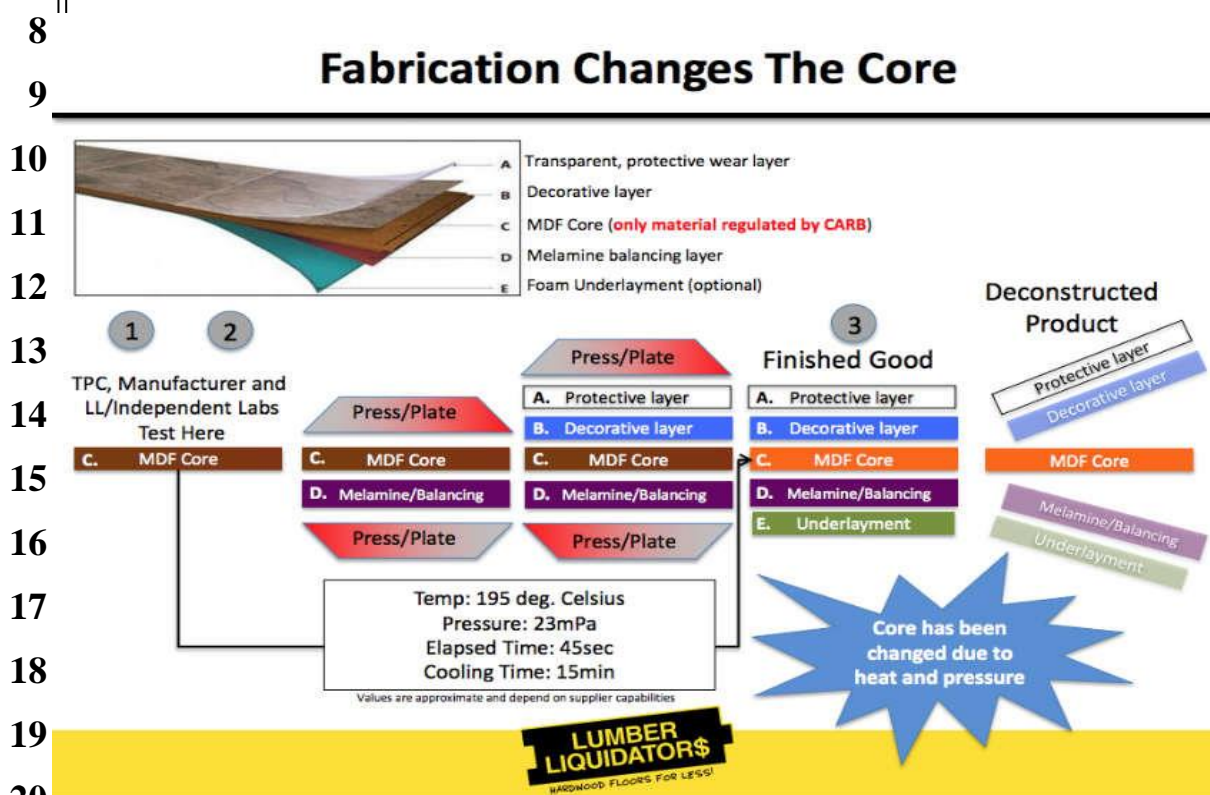
20 18. Typically, laminate flooring sold at retail for residential use is  
21 constructed using four basic layers:

- 22 a. The bottom backing layer (balancing layer) to create a stable and level
- 23 support for the rest of the plank;
- 24 b. On top of the backing layer is a medium density or high density
- 25 fiberboard core, which are frequently referred to in the industry
- 26 interchangeably as MDF or HDF cores;
- 27 c. On top of the core is a decorative layer (photograph paper) of wood
- 28 grain or other pattern; and

1 d. The transparent top layer of a melamine resin, the wear layer, provides  
 2 protection against wear, scratching, staining, and fading.

3 19. The laminate floor is created when the four layers are pressed together  
 4 under pressure and heat. The sheets are then cut into individual planks and  
 5 frequently have tongue and groove edges cut into them.<sup>1</sup>

6 20. An image found on Lumber Liquidators' website confirms that the  
 7 Laminates are substantially similar:



21 21. This image was created by Lumber Liquidators to advance its position  
 22 that its Chinese-manufactured laminates (the same products as the Laminates) do  
 23 not violate California Air Resources Board regulations for formaldehyde. The fact  
 24 that the Company is able to describe the construction and manufacturing process for  
 25 each of the Laminates in a single image demonstrates that the Laminates are

26 \_\_\_\_\_  
 27 <sup>1</sup> Laminate flooring is frequently installed on underlayment material to  
 28 improve sound or moisture performance, and occasionally such underlayment is pre-  
 glued to the backing layer for convenience.

1 substantially similar products.

2 22. The Laminates are distinguished primarily by aesthetic considerations  
3 having to do with the color and wood grain depiction of the decorative layer, the  
4 gloss, the width of the boards, and other variables (including thickness) which do  
5 not materially affect the durability of the various Laminates.

6 **“Durability” And Similar Descriptions Are Based On The AC3 Rating**

7 23. Whether or not a laminate meets the AC3 standard is dependent upon  
8 the thickness, uniformity, and composition of the top wear layer.

9 24. In the residential laminate flooring industry, AC rating is closely  
10 associated with “durability.”

11 25. An example is Pergo. Pergo is the most prominent brand of laminate  
12 flooring sold in the United States. On its website, [www.pergo.com](http://www.pergo.com), under the tab  
13 “Information & Help” and the pick list “FAQs” for the question “How is Pergo  
14 laminate flooring constructed?” is explained:

15 The first component is our patented ScratchGuard Advanced  
16 surface protection, which is comprised of a melamine resin enriched  
17 with aluminum oxide particles for enhanced scratch and scuff  
18 protection. In our most premium performance floors, ScratchGuard  
19 Advanced is combined with our innovative PermaMax™ wear layer to  
20 create a highly durable and wear-resistant surface that provides twice  
21 the wear and twice the durability\* versus ordinary laminates.

22 The asterisk next to “durability” in the above quote references the following  
23 note:

24 “\*Wear Claim compared to standard AC-3 laminate flooring and  
25 measured in accordance with NALFA/ANSI LF-01 2011 and/or EN  
26 13329:2006+A1:2008.”<sup>2</sup>

27 26. The term “durable” when used in the retail residential laminate flooring  
28 industry is a reference to—and evaluated by—the relative AC rating of the laminate  
29 flooring product.

30 27. “Durable” when used in the retail residential wood laminate flooring

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<sup>2</sup> [https://na.pergo.com/Care\\_Maintenance/faq](https://na.pergo.com/Care_Maintenance/faq) (visited March 1, 2016).

1 industry means an AC rating of at least AC3.

2 28. The term “premium” when used in the retail residential laminate  
3 flooring industry is a reference to—and evaluated by—the relative AC rating of the  
4 laminate flooring product.

5 29. “Premium” as used in this industry means an AC rating of at least AC3.

6 30. Lumber Liquidators itself equates its laminates’ AC rating with their  
7 durability. On a webpage published by Defendant on its website no later than May  
8 7, 2013, at <http://www.lumberliquidators.com/blog/whats-an-ac-rating>, Lumber  
9 Liquidators states (emphasis added):

10 Considering some new laminate thanks to your coupon? You  
11 may think the thicker the laminate the better, and the longer the  
12 warranty the longer it will last! That isn’t always the case, though. **So**  
13 **how do you know which laminate will last in your home** (or  
14 commercial space)? Luckily, **the European Producers of Laminate**  
15 **Flooring (EPLF) developed the Abrasion Rating System to give us**  
16 **a way of determining durability** and recommended usage level of  
17 different laminate floors. **The common term used to denote the**  
18 **durability of laminate flooring is the Abrasion Criteria or “AC”**  
19 **rating.**

20 **So, what exactly do AC ratings tell us? They represent a**  
21 **laminate’s resistance to abrasion, impact, stains and cigarette**  
22 **burns. AC ratings also indicate that the product has been tested for**  
23 **the effects of furniture legs, castors, and swelling along its edges.**  
24 When a laminate flooring product has a rating, then it has passed all of  
25 the test criteria. Failing just one test will disqualify a product.

26 The AC rating levels are designated AC1 through AC5, **each**  
27 **reflecting the product’s application and durability.**

28 . . .

29 **An AC3 for residential use is perfectly adequate. Typically**  
30 **the higher the laminate flooring rating, the higher the price may**  
31 **be.**

32 31. Accordingly, when sellers of residential laminate flooring in the United  
33 States refer to a laminate product as “durable,” “very durable,” “scratch resistant,”  
34 “harder than hardwood,” or “premium,” such representation constitutes a  
35 representation that the subject laminate meets at least the AC3 durability standard.

36 ///



1           32.     Additionally, when Lumber Liquidators made express representations  
2 regarding the durability, scratch resistance and premium quality of the Laminates on  
3 its website, and when it trained its retail store managers and sales staff to describe  
4 the Laminates to shoppers as “durable,” “very durable,” “scratch resistant,” “would  
5 not scratch,” “would not scratch from pet nails,” “harder than hardwood,” “just as  
6 durable as hardwood,” and like representations, it did so based upon its claim that  
7 the product met the AC3 industry standard for durability, including wear resistance.

8  
9     **General Residential Laminate Flooring Must Be AC3 Or Better to Be**  
10 **Merchantable**

11           33.     Lumber Liquidators’ primary competition in the residential flooring  
12 market, and in particular the market for laminate flooring, have for many years been  
13 the “big box” stores Lowe's and Home Depot.

14           34.     Lowe's and Home Depot, as well as smaller independent flooring  
15 retailers, sell non-private-label laminate flooring in addition to any private-label  
16 laminate that they sell. The following branded laminate flooring manufacturers each  
17 specify a minimum rating of AC3 for the U.S. market: Pergo, Bruce Laminate,  
18 Armstrong Laminate, QuickStep Laminate, and Alloc Laminate.

19           35.     Major retail sellers of residential laminate flooring in the United  
20 States—including Lumber Liquidators, Lowe's, and Home Depot—have settled on  
21 AC3 as the suitable minimum product standard in terms of durability for general use  
22 residential flooring.

23           36.     Lowe's does not offer any laminate flooring with a durability rating less  
24 than AC3 on its website or in its stores.

25           37.     Home Depot’s website offers some 291 laminate flooring models in its  
26 “residential” or “commercial-residential” lines, all of which have a rating of AC3 or  
27 higher. Home Depot’s website offers no laminate flooring with a durability rating

28

1 under AC3.<sup>3</sup>

2 38. In the market for laminate flooring in the United States, in order for  
3 laminate residential flooring to pass without objection in the trade for general  
4 residential use (including hallways and kitchens), a laminate must meet at least the  
5 AC3 durability standard.

6 **Lumber Liquidators' Responsibility for Marketing Defective Laminates**

7 39. In January 2011, Lumber Liquidators, whose stock is publically traded,  
8 under the direction of founder, Thomas D. Sullivan, hired Robert M. Lynch as  
9 President and Chief Executive Officer. Lynch brought with him to Lumber  
10 Liquidators William K. Schlegel as the new Chief Merchandising Officer for the  
11 Company.

12 40. Between February 22, 2012, and February 27, 2015, these officers and  
13 Chief Financial Officer Daniel Terrell reported record gross margins which were  
14 significantly higher than its major competitors (Home Depot and Lowe's). Through  
15 these officers Lumber Liquidators misrepresented that the major driver of its high  
16 margins were legitimate "sourcing initiatives" implemented by the company in  
17 China designed to reduce the cost of goods, cut out middlemen, increase control by  
18 the company, and strengthen relationships with its suppliers.

19 41. Sullivan, Lynch, Schlegel, and Terrell are individual defendants in a  
20 nationwide class action alleging that each of them and the company committed  
21 securities fraud in violation, *inter alia*, of Section 10(b) of the Securities Exchange  
22 Act of 1934, 15 U.S. Code § 78j, and SEC Rule 10b-5 promulgated thereunder. *In re*  
23 *Lumber Liquidators Holdings, Inc. Securities Litigation*, Case No. 4:13-cv-00157-

24

25 <sup>3</sup> [http://www.homedepot.com/b/Flooring-Laminate-Flooring-Laminate-](http://www.homedepot.com/b/Flooring-Laminate-Flooring-Laminate-Wood-Flooring/N-5yc1vZbejk)  
26 [Wood-Flooring/N-5yc1vZbejk](http://www.homedepot.com/b/Flooring-Laminate-Flooring-Laminate-Wood-Flooring/N-5yc1vZbejk) (visited March 1, 2016). In addition to these 291  
27 laminates, Home Depot's website lists three Shaw products that are shown as having  
28 an AC2 rating. However none of these models is actually available for purchase  
online or in any identifiable store, and Home Depot's customer care department  
confirms that they are no longer available and have been discontinued.

1 (E.D. Va.). An element of a Section 10(b) securities fraud action is “scienter,”  
2 defined as having either an intent to deceive or having been reckless in the making  
3 of false or misleading representations, or with respect to an omission of material  
4 fact.

5 42. Lynch and Schlegel had extensive prior experience in sourcing  
6 products from Chinese manufacturing plants prior to joining Lumber Liquidators.

7 43. Among flooring retailers, laminates fill a product niche as a relatively  
8 inexpensive alternative to real (natural) solid wood flooring, generally offering the  
9 look of wood at a lower price point. This is the niche that Lumber Liquidators’  
10 Dream Home private-label brand of laminates filled at the company.

11 44. For many years, laminates and solid wood flooring have constituted the  
12 most significant product ranges for Lumber Liquidators in terms of sales.

13 45. Soon after they joined Lumber Liquidators, Lynch and Schlegel  
14 engaged in a so-called “sourcing initiative” regarding Lumber Liquidators’  
15 regarding the Laminates. As part of this initiative, they travelled to China and  
16 conducted “line reviews,” consisting of requiring competing Chinese laminate mills  
17 to re-bid for Lumber Liquidators’ laminate business.

18 46. Lumber Liquidators obtained steep discounts from the Chinese mills  
19 that manufactured the Laminates. After receiving these discounts, Lumber  
20 Liquidators continued to represent to its customers that the Laminates complied with  
21 all regulatory and applicable industry standards, including notably the standards for  
22 formaldehyde emissions established by the California Air Resources Board (“CARB  
23 2”) and the European AC3 durability standard. Lumber Liquidators was selling  
24 substandard laminates as premium products, thereby inflating its margins.

25 47. Based on Lynch’s and Schlegel’s prior experience in sourcing products  
26 from China and on widespread industry knowledge by American companies  
27 sourcing products there, Lumber Liquidators knew, or recklessly disregarded, that  
28 negotiating steep price discounts with Chinese manufactures ran a high risk of such

1 manufacturers cutting corners to reduce manufacturing costs in order to maintain  
2 margin or profits, regardless of the technical requirements of Lumber Liquidators’  
3 supply contracts and product specifications.

4 48. In March 2015, the CBS News program “60 Minutes” broadcast the  
5 findings of its extensive investigation, which included hidden on camera interviews  
6 of several plant managers at Lumber Liquidators’ Chinese suppliers, revealing that  
7 30 out of the 31 boxes of Laminates purchased in the United States by CBS did not  
8 comply with the CARB 2 standard as represented on Lumber Liquidators’ website  
9 and on its Dream Home product labels.

10 49. In an on-camera interview broadcast by CBS 60 Minutes, a plant  
11 manager of one of Lumber Liquidators Laminates suppliers, referring to a package  
12 of Lumber Liquidators’ Dream Home laminate flooring on the plant floor, admitted  
13 that the product was not CARB 2 compliant. He further stated that the plant was  
14 capable of manufacturing CARB 2 laminate, but that it would be more expensive to  
15 do so.

16 50. On May 7, 2015, Lumber Liquidators discontinued all sales of Chinese-  
17 sourced laminates, when it had approximately \$20 million inventory of this product  
18 on hand.

19 51. On December 21, 2015, Judge Arenda L. Wright Allen of the United  
20 States District Court for the Eastern District of Virginia entered a ruling denying  
21 Lumber Liquidators’, Sullivan’s, Lynch’s, and Schlegel’s motions to dismiss the  
22 security fraud claims, finding that the allegations met the heightened pleading  
23 standards for scienter set forth in the Private Securities Litigation Reform Act of  
24 1995. The court did so in part based upon the allegations in the Consolidated  
25 Amended Complaint for violation of the Federal Securities Laws in the above-  
26 reference case, summarized above, concerning Lumber Liquidators’ “sourcing  
27 initiatives” and “line reviews” by Lynch and Schlegel, and the Company’s allegedly  
28 false explanations of the nature of its elevated margins for the Laminates, based

1 upon the sale of cheaper, non-CARB Phase 2 compliant Laminates.

2 52. Similar to the formaldehyde non-compliance of the Laminates (which  
3 is not the basis of any claims made in this action), Lumber Liquidators' Chinese  
4 suppliers have the capacity to manufacture AC3 laminate flooring, but it is more  
5 expensive to do so (versus manufacturing AC2, AC1, or laminates that fail even the  
6 AC1 standard, such as the Laminates). This is because the incorporation of more  
7 resilient wear layers is more expensive.

8 53. Similar to the formaldehyde non-compliance of the Laminates (which  
9 is not the basis for any claims made in this action), Lumber Liquidators knew that its  
10 Laminates did not comply with AC3, or was reckless in continuing to represent AC3  
11 compliance without independently verifying same, after negotiating discounts with  
12 its Laminates suppliers.

13 54. In a "limited warranty" that Lumber Liquidators contends it extended  
14 to Plaintiff and all putative Class Members in conjunction with their purchases of  
15 the St. James, Ispiri, Kensington Manor, and Nirvana lines of Dream Home brand  
16 Laminates, Lumber Liquidators states:

17 Each board is meticulously inspected throughout the manufacturing  
18 process to make sure it complies with [St James's] unwavering  
standards.

19 If these statements are true, then Lumber Liquidators must have known that the  
20 Laminates were not AC3 compliant, as extensive testing has now revealed.

21 55. In its limited warranties for the Laminates, Lumber Liquidators states  
22 that the Laminates are "free of defects."

23 56. Lumber Liquidators knew that its Laminates did not comply with AC3,  
24 or was reckless in continuing to represent AC3 compliance without independently  
25 verifying same after negotiating discounts with its Laminates suppliers.

26 **Defendant's Website and Other Misrepresentations and Omissions**

27 57. When researching a Laminate purchase on the Lumber Liquidators'  
28 website, Plaintiff visited a minimum two pages shortly before purchasing her

1 Lumber Liquidators' product:

2           a. a laminates "landing page" ("Laminates Landing Page")  
3 describing the Company's wood laminate flooring, including the Laminates,  
4 and containing specific representations; and

5           b. a product-specific page, accessed by clicking on an image or  
6 name shown on the Laminates Landing Page, that provided more particular  
7 specification for each Laminate product.

8 58. Plaintiff saw the following representations by Lumber Liquidators on  
9 the Laminates Landing Page:

10           a. "Very durable and scratch-resistant;" or

11           b. "Very scratch-resistant."

12 59. Each Laminate product-specific webpage expressly described the  
13 Laminate as having an AC rating of "AC3."

14 60. Defendant's website advertised that the Laminates, including the "St.  
15 James Collection", the "Kensington Manor Collection", the "Nirvana Collection"  
16 and the "Ispiri Collection" all have an AC rating of "AC3".

17 61. Defendant also represents on its website that the Nirvana Collection  
18 comes with a "25 year warranty."

19 61. Defendant also represents on its website that the St. James Collection is  
20 "very durable" and comes with a "30 year warranty."

21 62. Defendant also represents on its website that "Kensington Manor is a  
22 premium 12mm laminate" and lists the "Kensington Manor Flooring Advantages,"  
23 which include an AC Rating of AC3 and a 30 year warranty.

24 63. Defendant also represents on its website that its Ispiri Collection has  
25 certain superior qualities and ingredients, including: "With its new laminate  
26 manufacturing process called Liquid Oxide High Definition technology the Ispiri  
27 Collection has raised the bar on . . . durability." Further, Defendant's website  
28

1 represents the "Ispiri Collection's Advantages" include an AC rating of AC3 and a  
2 30 year warranty.

3 64. Lumber Liquidators' store managers and staff, who are employees of  
4 Defendant, are trained by Lumber Liquidators to answer customer questions and to  
5 market the Laminates.

6 65. These employees are encouraged and trained to use Lumber  
7 Liquidators product descriptions contained on Defendants' website, including the  
8 Laminate Landing Page and product-specific pages for the Laminates, to describe  
9 the Laminates' characteristics and qualities.

10 66. As set forth more particularly below, these employees systematically  
11 told Plaintiff and other customers that the Laminates were "very durable," "just as  
12 durable as U.S.-made laminates," "scratch-resistant," "more durable than  
13 hardwood," "harder than hardwood," and that they "would not scratch," "wood not  
14 scratch from pet nails," and would "hold up" to pets. These representations were  
15 made to Plaintiff and to putative Class Members based upon the Laminates' claimed  
16 AC3 compliance.

17 67. Defendant, and its employees, failed to disclose to Plaintiff and to each  
18 putative Class Member that the Laminates were not AC3 compliant, were not  
19 durable, were not scratch-resistant, and would not resist fading, staining, and the  
20 other problems alleged herein relating to the defect.

21 68. Lumber Liquidators provided customers with an invoice at the time of  
22 sale to purchasers of the Dream Home laminate products, including the St. James  
23 African Mahogany laminate product. On page 1 of the invoice Lumber Liquidators  
24 states that the Dream Home St. James African Mahogany laminate product comes  
25 with a "30 year warranty." There is no reference on page one of the invoice to a  
26 "limited warranty," and no indication of any limitation to the warranty on this page.

27 69. On the final page of the invoice, Lumber Liquidators included a  
28 disclaimer, which is not conspicuous and is vague. Plaintiff is informed and believes

1 that the disclaimer did not expressly mention the implied warranty of  
2 merchantability.

3 70. Lumber Liquidators' purported "limited warranties" were not presented  
4 to or shown to Plaintiff or putative Class Members at the time of the sale.

5 71. Any limitations in the limited warranties fail of their essential purpose,  
6 or are otherwise both procedurally and substantively unconscionable, and therefore  
7 ineffective.

### 8 **Why Lumber Liquidators Representations Are False**

9 72. Lumber Liquidators' representations that the Laminates meet the  
10 industry AC3 standard are false because the Laminates do not meet this standard.

11 73. Lumber Liquidators' representations that the Laminates are "durable,"  
12 "very durable," "very scratch-resistant," "scratch-resistant," and "harder than  
13 hardwood" and the oral representations listed above and more particularly below are  
14 false because the Laminates do not have these qualities, on account of the defects  
15 alleged herein.

### 16 **Plaintiff's Discovery of the Durability Defect**

17 74. Over the past months, a sample of the St. James African Mahogany  
18 laminate product was tested by a certified and accredited laboratory. The testing  
19 method used by the lab is the same standardized test method used worldwide  
20 throughout the flooring industry to determine the AC rating of laminate flooring  
21 products. The laminate flooring product failed to meet the AC3 rating, which was  
22 advertised by Lumber Liquidators.

23 75. Whether a product complies with the AC3 industry standard is not  
24 something that would be apparent to consumers. AC3 testing is expensive and  
25 requires special expertise and equipment not readily available or accessible to a  
26 consumer.

27 76. When Lumber Liquidators, through its customer service department or  
28 through store sales personnel, are approached with durability issues such as



1 scratching and the other manifestations of the defect alleged herein, it engages in a  
2 pattern and practice of delay and obfuscation.

3 77. Lumber Liquidators personnel did not inform Plaintiff that her  
4 durability problems, as set forth below, resulted from the failure of the Laminate to  
5 meet the claimed AC3 industry standard.

6 78. A common practice at Lumber Liquidators has been to blame durability  
7 problems and defects on:

- 8 a. Installers or installation problems;
- 9 b. Moisture problems;
- 10 c. Normal product variability; and
- 11 d. Product abuse.

12 79. Lumber Liquidators' lawyers recently attributed the detailed product  
13 defect manifestations listed in a prior related proceeding to installation failures,  
14 further continuing the pattern of denial by Lumber Liquidators and confirming their  
15 client's previous pattern.

16 80. By engaging in a pattern and practice of deflecting durability problems  
17 attributable to the defect alleged herein—failure to meet the claimed industry AC3  
18 standard — or by attributing durability problems to causes other than the defect  
19 (installation, etc.), Lumber Liquidators fraudulently concealed the defect from  
20 Plaintiff and putative Class Members.

21 81. Plaintiff and putative Class Members cannot reasonably be charged  
22 with notice of the defect prior to the discovery of widespread supplier problems  
23 relating to Lumber Liquidators' Chinese-sourced Laminates as a result of the  
24 formaldehyde controversy in 2015.

25 82. Defendant sells the Dream Home line of laminate flooring products,  
26 and others, at Lumber Liquidators' 37 retail stores in California, 12 stores in North  
27 Carolina, 28 stores in Texas, 13 stores in New Jersey, 26 stores in Florida, 3 stores  
28 in Nevada, 8 stores in Connecticut, 10 stores in Georgia, 16 stores in Illinois, 3

1 stores in Iowa, 8 stores in Indiana, 4 stores in Kentucky, 5 stores in Louisiana, 10  
2 stores in Massachusetts, 10 stores in Maryland, 3 stores in Maine, 10 stores in  
3 Michigan, 6 stores in Minnesota, 2 stores in Mississippi, 5 stores in Missouri, 2  
4 stores in Nebraska, 19 stores in New York, 13 stores in Ohio, 3 stores in Oklahoma,  
5 20 stores in Pennsylvania, 8 stores in South Carolina, 6 stores in Tennessee, 12  
6 stores in Virginia, 7 stores in Washington, 5 stores in Wisconsin and 3 stores in  
7 West Virginia, and 5 stores in Alabama. Lumber Liquidators also sells these  
8 laminate floor products to consumers through the internet at  
9 [www.lumberliquidators.com](http://www.lumberliquidators.com) and through telephone sales at 1-800-HARDWOOD.

10 83. Plaintiff seeks to represent herself and all similarly-situated persons  
11 who have purchased Dream Home laminate flooring products from Defendant in the  
12 United States for her Third Cause of Action, as well as all similarly situated persons  
13 who have purchased Dream Home laminate flooring in Illinois for the First, Second,  
14 Fourth, and alternatively Third Causes of Action, at any time from the date the  
15 products were first placed into the marketplace through the date last sold to the  
16 public, reportedly in May 2015 (the "putative class"). Plaintiff seeks damages and  
17 equitable relief on behalf of the Class, which relief includes but is not limited to  
18 restitution to the Plaintiff and Class Members of the full amount of the purchase  
19 price and out-of-pocket expense paid to install their laminate flooring, the cost or  
20 replacing the defective flooring, injunctive relief and declaratory relief; and any  
21 additional relief that this Court determines to be necessary to provide complete relief  
22 to Plaintiff and the Class.

23 **PARTIES**

24 84. Plaintiff Clara Coleman resides Chicago, Illinois.

25 85. Defendant Lumber Liquidators, Inc. is a Delaware corporation with its  
26 headquarters and principal place of business at 3000 John Deere Road, Toano,  
27 Virginia. Lumber Liquidators, Inc. distributes, markets, and/or sells the laminate  
28

1 flooring at issue and actively conducts business in Illinois.

2 **JURISDICTION AND VENUE**

3 86. This Court has subject matter jurisdiction over this action under the  
4 Class Action Fairness Act of 2005, 28 U.S.C. §1332(d)(2) (“CAFA”), in that the  
5 matter is a class action wherein the amount in controversy exceeds the sum or value  
6 of \$5,000,000, exclusive of interest and costs, and members of the Class are citizens  
7 of states different from the Defendant.

8 87. This Court has personal jurisdiction over the parties in this action by  
9 the fact that Defendant is a corporation that is authorized to conduct business in  
10 Illinois and it has intentionally availed itself of the laws and markets of Illinois  
11 through the promotion, marketing, distribution and sale of its laminate wood  
12 flooring products. Plaintiff purchased her laminate flooring from Lumber  
13 Liquidators in Illinois.

14 88. Venue is proper in this District pursuant to 28 U.S.C. §1391(b),  
15 because a substantial part of the events or omissions giving rise to Plaintiff’s claims  
16 occurred in this District. Venue is also proper under 18 U.S.C. §1965(a), because  
17 Defendant transacts a substantial amount of its business in this District.

18 **PARTICULARIZED FACTUAL ALLEGATIONS**

19 89. On or about March or April of 2012, Plaintiff purchased the Dream  
20 Home St. James African Mahogany 12mm laminate from the Lumber Liquidators'  
21 store located in Chicago, Illinois. Three years after purchase, the laminate is  
22 showing scratches and water has ruined the flooring. Clara Coleman purchased her  
23 flooring online and picked it up at a physical store. Prior to her purchase she relied  
24 on representations on Defendants’ website that the flooring was durable and scratch  
25 resistant. Based upon these representations, Plaintiff made the decision to purchase  
26 this product. Plaintiff has used Defendant's product as it was intended to be used for  
27 normal residential traffic, but the flooring does not withstand normal wear and tear  
28 during normal use and has failed and deteriorated long before its advertised useful

1 life. Plaintiff would not have purchased the St. James African Mahogany laminate  
2 product had she known that it was defective, not durable, and had an inferior ability  
3 to withstand abrasion.

4 **CLASS ALLEGATIONS**

5 90. This action may properly be maintained as a class action pursuant to  
6 Federal Rules of Civil Procedure Rule 23. The Class is sufficiently numerous, since  
7 it is estimated to include tens of thousands of consumers, the joinder of whom in one  
8 action is impracticable, and the disposition of whose claims in a class action will  
9 provide substantial benefits to the parties and the Court.

10 91. Class Definition: Without prejudice to later revisions, the Class  
11 Plaintiff seeks to represent is composed of:

- 12 a. All persons in the United States who purchased the Laminates  
13 from Defendant. This proposed class is only for Plaintiff's Third Cause  
14 of Action; and,  
15 b. All persons who purchased in Illinois the Laminates from  
16 Defendant. This proposed class includes Plaintiff's First, Second, and  
17 Fourth Causes of Action, and alternatively includes Plaintiff's Third  
18 Cause of Action.

19 92. Excluded from the Class are governmental entities, Defendant, its  
20 affiliates and subsidiaries, Defendant's current and former employees, officers,  
21 directors, agents, representatives, their family members, and the members of the  
22 Court and its staff.

23 93. Throughout discovery in this litigation, Plaintiff may find it appropriate  
24 and/or necessary to amend the definition of the Class. Plaintiff reserves the right to  
25 amend the Class definitions if discovery and further investigation reveal that the  
26 Class should be expanded or otherwise modified.

27 ///

28

1           94.    Class Members Are Numerous: While Plaintiff does not know the  
2 exact number of Class Members, Plaintiff is informed and believes that there are  
3 thousands of Class Members. The precise number of members can be ascertained  
4 through discovery, which will include Defendant's sales, service and other business  
5 records. The Class is so numerous that the individual joinder of all members of the  
6 Class is impractical under the circumstances of this case.

7           95.    Common Questions of Law and Fact Predominate: There is a well-  
8 defined community of interest among the Class. The questions of law and fact  
9 common to the Class predominate over questions that may affect individual Class  
10 Members. These questions of law and fact include, but are not limited to, the  
11 following:

- 12           a.    Whether Defendant's laminate flooring is defective when used as  
13               intended or in a reasonably foreseeable manner;
- 14           b.    Whether Defendant's laminate flooring has an AC Rating less than  
15               AC3;
- 16           c.    Whether Defendant's laminate flooring was fit for its intended purpose;
- 17           d.    Whether Defendant has breached the implied warranty of fitness for a  
18               particular purpose;
- 19           e.    Whether Defendant has breached the implied warranty of  
20               merchantability;
- 21           f.    Whether Defendant knew that its laminate flooring was defective and  
22               had an Abrasion Class rating of less than AC3;
- 23           g.    Whether Defendant omitted and concealed material facts from its  
24               communications and advertising to Plaintiff regarding the durability of  
25               its laminate flooring;
- 26           h.    Whether Defendant falsely advertised that its laminate flooring  
27               products were "AC3" rated, "very durable" and "very scratch-resistant"  
28               when in fact they were not;
- i.    Whether Defendant's misrepresentations or omissions constitute unfair  
              or deceptive practices under the Illinois consumer protection statute  
              alleged herein;
- j.    Whether Plaintiff and proposed Class Members have been harmed and  
              the proper measure of relief;

1 k. Whether Plaintiff and proposed Class Members are entitled to an award  
2 of punitive damages, attorneys' fees and expenses against Defendant;  
and

3 1. Whether, as a result of Defendant's misconduct, Plaintiff is entitled to  
4 equitable relief, and if so, the nature of such relief.

5 97. Typicality: Plaintiff's claims are typical of the claims of the members  
6 of the proposed class. Plaintiff and all Class Members have been injured by the  
7 same wrongful practices of Defendant. Defendant made the same uniform  
8 representations on its website and on the labels affixed to their product packaging.  
9 Plaintiff is informed and believes that these representations were made by  
10 Defendant nationally and throughout Illinois, on its website, and other forms of  
11 advertisements which were identical. Plaintiff's claims arise from the same practices  
12 and conduct that give rise to the claims of all Class Members and are based on the  
13 same legal theories.

14 98. Adequacy: Plaintiff will fairly and adequately represent and protect the  
15 interests of the Class in that they have no disabling conflicts of interest that would  
16 be antagonistic to those of the other members of the Class. Plaintiff seeks no relief  
17 that is antagonistic or adverse to the members of the Class and the infringement of  
18 the rights and the damages they have suffered are typical of all other Class  
19 Members. Plaintiff has retained attorneys experienced in consumer class actions and  
20 complex litigation as counsel.

21 99. Superiority: The disposition of Plaintiff's and proposed Class Members'  
22 claims in a class action will provide substantial benefits to both the parties and the  
23 Court. The nature of this action and the nature of laws available to Plaintiff and the  
24 Class make the use of the class action device a particularly efficient and appropriate  
25 procedure to afford relief to Plaintiff and the Class for the wrongs alleged because:

26 a. The individual amounts of damages involved, while not  
27 insubstantial, are such that individual actions or other individual  
28 remedies are impracticable and litigating individual actions

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- would be too costly;
- b. If each Class Member was required to file an individual lawsuit, the Defendant would necessarily gain an unconscionable advantage since they would be able to exploit and overwhelm the limited resources of each individual Class Member with vastly superior financial and legal resources;
  - c. The costs of individual suits could unreasonably consume the amounts that would be recovered;
  - d. Given the size of individual proposed Class Members' claims and the expense of litigating those claims, few, if any, proposed Class Members could afford to or would seek legal redress individually for the wrongs Defendant committed against them and absent proposed Class Members have no substantial interest in individually controlling the prosecution of individual actions;
  - e. This action will promote an orderly and expeditious administration and adjudication of the proposed class claims, economies of time, effort and resources will be fostered and uniformity of decisions will be insured;
  - f. Without a class action, proposed Class Members will continue to suffer damages, and Defendant's violations of law will proceed without remedy while Defendant continues to reap and retain the substantial proceeds of its wrongful conduct;
  - g. Plaintiff knows of no difficulty that will be encountered in the management of this litigation that would preclude its maintenance as a class action;
  - h. Proof of a common business practice or factual pattern which Plaintiff experienced is representative of that experienced by the

1 Class and will establish the right of each member of the Class to  
2 recover on the causes of action alleged; and

3 i. Individual actions would create a risk of inconsistent results and  
4 would be unnecessary and duplicative of this litigation.

5 100. Plaintiff and Class Members have all similarly suffered irreparable  
6 harm and damages as a result of Defendant's unlawful and wrongful conduct. This  
7 action will provide substantial benefits to Plaintiff, the Class and the public because,  
8 absent this action, Plaintiff and Class Members will continue to suffer losses,  
9 thereby allowing Defendant's violations of law to proceed without remedy and  
10 allowing Defendant to retain proceeds of its ill-gotten gains.

11 **FIRST CAUSE OF ACTION**

12 **Breach of Implied Warranty**

13 101. Plaintiff individually and on behalf of all others similarly situated,  
14 adopts and incorporates by reference all foregoing allegations as though fully set  
15 forth herein.

16 102. Defendant impliedly warranted that the Laminates were merchantable,  
17 fit for their intended purpose and suitable for general residential use, including high  
18 traffic areas.

19 103. The Laminates are not merchantable. In breach of the implied warranty  
20 of merchantability, the Laminates are defective because they do not have an AC  
21 rating of AC3, prematurely fail due to scratches, impacts, warping, fading, stains  
22 and edge curling and are not suitable for general residential use.

23 104. The Laminates were defective when they left Defendant's control and  
24 entered the market.

25 105. The Laminates' defects were not open and/or obvious to consumers.

26 106. Any purported disclaimer or limitation of the duration and scope of the  
27 implied warranty of merchantability given by Defendant is ineffective, not  
28 conspicuous, unreasonable, unconscionable and void, because Defendant knew or



1 recklessly disregarded that the defect in the Laminates existed and might not be  
2 discovered, if at all, until the flooring had been used for a period of time, and  
3 Defendant willfully withheld information about the defect from purchasers of  
4 flooring. Moreover, due to the unequal bargaining power between the parties,  
5 Plaintiff and the proposed Class Members had no meaningful alternative to  
6 accepting Defendant's attempted pro forma limitation of the duration of any  
7 warranties.

8 107. Defendant received notice that the Laminates were not merchantable  
9 through Plaintiff's written complaints to Lumber Liquidators, her correspondence,  
10 its own product testing, its "robust Quality Assurance program," numerous customer  
11 complaints, and its customer service and warranty operations, and through a putative  
12 class action filed in Los Angeles well before Plaintiff and proposed Class Members  
13 filed suit. Defendant has had adequate and reasonable opportunity to cure its  
14 breaches but has failed to do so.

15 108. As a result, Plaintiff and all proposed Class Members have been  
16 damaged in, *inter alia*, the amount they paid to purchase and replace Defendant's  
17 un-merchantable laminate flooring.

## 18 SECOND CAUSE OF ACTION

### 19 **Fraudulent Concealment**

20 109. Plaintiff individually and on behalf of all others similarly situated,  
21 adopts and incorporates by reference all foregoing allegations as though fully set  
22 forth herein.

23 110. Defendant represented on its website that its Nirvana line of laminate  
24 flooring products have an Abrasion Class rating of AC3 and a "25 year warranty."  
25 Defendant also represented on its website that its St. James Collection line of  
26 laminate flooring products is "very durable" and the "St. James Collection's  
27 Advantages" include an Abrasion Class rating of "AC3" and a "30 Year Warranty."  
28 Defendant also represented that its Kensington Manor Collection line of laminate

1 flooring products is a "premium 12 mm" laminate product line and that the  
2 "Kensington Manor Collection Advantages" include an AC rating of AC3 and a "30  
3 Year Warranty." Defendant also represented on its website that its Ispiri Collection  
4 line of laminate flooring "has raised the bar on . . . durability." Defendant's website  
5 also represents the "Ispiri Collection's Advantages" include an AC rating of AC3  
6 and a 30 Year Warranty. Further, the product packaging of all of Defendant's Dream  
7 Home brand of laminate flooring states it comes with a "30 Year Warranty."

8 111. Plaintiff is informed and believes that Lumber Liquidators knew, or  
9 recklessly disregarded that the Laminates were defective based upon hundreds of  
10 complaints posted by Lumber Liquidators' customers on websites, including but not  
11 limited to, [www.ths.gardenweb.com](http://www.ths.gardenweb.com), [www.consumeraffairs.com](http://www.consumeraffairs.com),  
12 [www.complaintlist.com](http://www.complaintlist.com), [www.my3cents.com](http://www.my3cents.com) and others, which describe scratching,  
13 bubbling, delaminating, peeling and curling of Lumber Liquidators' Dream Home  
14 laminate flooring identical to the damages suffered by Plaintiff herein.

15 112. For example, on June 1, 2005, "kitchenlover" posted the following  
16 question on [www.ths.gardenweb.com](http://www.ths.gardenweb.com):

17 "Anyone used the Dream Home laminate from LL?"

18 113. On or about September 14, 2005 "pat111153" responded to the above-  
19 referenced question by posting the following, in relevant part, on  
20 [www.ths.gardenweb.com](http://www.ths.gardenweb.com):

21 "...chips show up on edges later...."

22 114. On or about January 25, 2007, "sammyswife" posted the following  
23 another response on [www.ths.gardenweb.com](http://www.ths.gardenweb.com):

24 "I HATE this flooring!! Does anyone have the Dream Home parent company  
25 info? LL is no help! The salesman incorrectly told us how to install it. After a year  
26 of it being down, we are ripping it up because it looks horrible! It chips and peels  
27 and is awful! LL blames our installation, but thanks to their own people, we cannot  
get anywhere with the so-called warranty. I want to write the company directly and  
can't seem to find them anywhere. If anyone knows a link or number of where I can  
call, please email me at [redacted for privacy], thanks!"

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1 115. On or about June 12, 2011 "grandpe02" posted his/her response on  
2 [www.ths.gardenweb.com](http://www.ths.gardenweb.com):

3 "I recently purchased (*sic*) 1000sq ft. of dream home French oak. Big  
4 mistake. LL was no help at all. The boards were very warped and chipped after  
5 laying. And it can't be cleaned without leaving streaks. And seems LL they have  
6 never heard this from anyone before. Wish I would have checked out the internet  
7 first. This stuff is garbage..."

8 116. On or about April 11, 2013, "poorchoice" posted his response on  
9 [www.ths.gardenweb.com](http://www.ths.gardenweb.com) as follows:

10 "Finished laying Dream Home Nirvana Plus on Saturday. Job went well and  
11 Wife was pleased. Floor was beautiful with tight joints and a warm rich color.  
12 While replacing furniture, Wife dragged a plant with a plastic saucer under it and  
13 made some scratches across the middle of the room. Scratches are not too bad, but  
14 raised suspicions. I moved the recliner, which has plastic pads on it to find that in  
15 just 4 days the laminate is worn through the 'warm rich color'. Wife says the  
16 salesman said that this stuff wont scratch with anything but a knife. LL warrants it  
17 for foot traffic for 25 years, so I guess you are supposed to keep it covered except  
18 where you walk. I have some question about its longevity since the recliner wore  
19 through to white in 4 days...."

20 117. On or about November 4, 2013, "KDraper" posted his response as  
21 follows on [www.ths.gardenweb.com](http://www.ths.gardenweb.com):

22 "We had this product professionally installed. HATE it. Six months after it  
23 was put in we started seeing areas delaminate. Some were high traffic some were  
24 low/no traffic...We contacted the company through LL. Their answer was we our  
25 area was either too wet or too dry and it wasn't their problem that we had almost  
26 1000sf of this flooring that looked like crap. I will never use LL again...."

27 On [www.complaintslist.com](http://www.complaintslist.com) "Pat" wrote on April 23, 2013:

28 "When we went there, we were met by the store manager, 'Dave' (He was  
very sick at the time, remember!) and informed him we were looking for a floor that  
would not scratch as we had two small dogs. Dave showed us some flooring  
samples and said to us, 'it will not scratch from your dogs, I have a dog and the same  
flooring in my house and mine has no scratches.' Well not more than two weeks  
after it was installed, we noticed scratches on the floor."

118. On [www.mythreecents.com](http://www.mythreecents.com), "AllenB" wrote on November 23, 2009:

"Spent almost 10,000 dollars on a prefinished floor by Lumber Liquidators.  
After only a week of normal use I notices serious scratching. I took closer notice  
and marked over 100 scratches on these floors, many all the way through the finish!  
Three salesman we spoke to before buying this product all answered the same  
questions we asked, 'Will our dogs or children scratch this floor with their normal  
use?' They assured me we would have no problem, explained how these floors are  
ideal with pets and even gave us promotional material that showed a large dog on  
this floor."

1 119. On [www.mythreecents.com](http://www.mythreecents.com), "JR in Arizona" wrote on March 20, 2010:

2 "In 2007 I bought the Asian Birch Flooring. Within 6 months it started to  
3 delaminate. It is engineered wood flooring. I finally made a complaint to LL asking  
4 for repairs where the floor is clearly separating from the wood backing...After a  
5 week they sent me a letter saying they were not responsible. I guess they get to  
6 rewrite their warranties as they please."

7 120. In response to this complaint, Lumber Liquidators posted the following  
8 response on March 29, 2010, proving it was monitoring customer complaints on this  
9 website:

10 "If we had someone take photos of the flooring it would have been in support  
11 of your warranty as a need to hold a manufacturer accountable for quality should a  
12 defect be found. Flooring will react to changing conditions and we not the invoice,  
13 warranty and installation instructions, as well as some boxes also note requirements  
14 for maintaining ideal conditions. The problem is most consumers don't read this  
15 information until a problem occurs...a little too late, then expect LL to compensate  
16 for issues out of our control...In some situations we even send a complimentary box  
17 to help with repairs, but it sounds like the problem was not with the flooring, but  
18 rather some installation or site condition...I'm sorry to hear this lead to some  
19 dissatisfaction as the problem would be the same no matter where you shopped; you  
20 would most likely pay more elsewhere. Read the information provided - Dan  
21 Gordon often provides some good advice as well with his replies - Bob Villa also  
22 knows how important it is to read the installation instructions/warranty."

23 121. On [www.consumeraffairs.com](http://www.consumeraffairs.com), Lana of Trabuco Canyon, CA wrote on  
24 August 6, 2015:

25 "Warranty claim unresolved due to company unresponsiveness spanning 8  
26 months. We noticed some surface chipping away on a little area in the formal living  
27 room that we rarely use. It had been only 2.5 years from purchasing the engineered  
28 wood with a 30 year warranty. We initiated the warranty process with the worst  
29 encounters of customer service that I have experienced. For the last 8 months we  
30 have experienced months of delays, avoidance, ignored, and being forwarded to  
31 multiple customer service representatives. Matt, representative of Lumber  
32 Liquidators stated that it was impossible that it was Lumber Liquidator's faulty  
33 wood and that it was the installers fault just by looking at the pictures.

34 I researched online regarding warranty claims of customers of Lumber  
35 Liquidators and that it is their reasoning to other customers regarding warranty  
36 claims. Note this is prior to any inspection that Matt came to the conclusion. Rather  
37 insulting when myself and fiancé had to deal with 8 months of delays, avoidance,  
38 being ignored, and being forwarded to multiple customer service representatives just  
39 to have him state that via e-mail. We're taking them to small claims court but, I just  
40 want potential customers or customers their actual warranty practices and poor  
41 customer service because Lumber Liquidators advertises warranty and customer  
42 service as their key points to why customers go to them."

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1 122. On [www.consumeraffairs.com](http://www.consumeraffairs.com) Will of Sandia Park, NM wrote on June  
2 10, 2015:

3 "We purchased America's Mission Olive 12mm laminate flooring from  
4 Lumber Liquidators in December of 2014 and had it installed throughout our home  
5 (except bathrooms) in our new remodel. We chose this floor after speaking with  
6 their sales people who convinced us that this is a very durable floor, which would  
7 hold up great to pets and kids. We had the floors installed by a professional and  
8 were very happy with the results for about a month. That was when we started  
9 noticing the chips all over the floor and the bubbling along the edges of the planks.  
10 If a drop of liquid came into contact with these floors, even if wiped up  
11 immediately, the surface of the product would start to peel away from the backing.  
12 And anytime anything was dropped on the floor they would chip.

13 We were extremely disappointed because these floors had been sold to us as  
14 being extremely durable and multiple employees at the Albuquerque store told us  
15 that they would be great for a family with pets and kids. We contacted their  
16 customer care line, sure that they would make this right since this was obviously a  
17 misrepresentation of the product they were selling. We figured that a company this  
18 large would have some pride in their products and stand behind what they sold.  
19 Unfortunately this has not been the case at all.

20 After jumping through hoops we were told to send them a box of our  
21 unopened flooring. We did this and a few days later we contacted with an "it's not  
22 our fault" letter. They said that they had done internal testing and that based off of  
23 the pictures we had sent them and their "internal testing" it was moisture damage.  
24 The funny thing is that we didn't even send pictures of the bubbling from moisture,  
25 we had just send pictures of the chipping. This showed us that they hadn't even  
26 bothered to review our claims before writing us off!!

27 After this, we requested to see the report on our floors from their "internal  
28 tests" and were told "there is no report, just a notation made on the file that the  
issues of concern are not manufacturing related. I don't know what the inspection  
process is except for what I have already shared with you as this is done by a  
separate entity." ARE YOU KIDDING ME?? What reputable, ethical company runs  
"internal testing" and doesn't document it? At this point we were very frustrated  
with the company because it is obvious that they have been giving us the runaround.  
So after many more emails and calls (most of which were never even  
acknowledged) we were told they would send out a "third party inspector". The  
inspector finally came and took some pictures and moisture readings and left  
without giving us any information.

We were contact by Lumber Liquidators a few days later with another not  
saying it is all moisture related and not their fault. However, their own warranty  
states that "Your Ispiri floor is warranted against finish wear from normal household  
conditions resulting in exposure of the paper layer". This is exactly what is  
happening in our home! We have since asked multiple times to see a copy of the  
report be the "third party inspector" and have been ignored. We have also requested  
multiple times to speak with a supervisor, only to be ignored each time.

I would never recommend Lumber Liquidators to anyone. In fact, I will be  
doing just the opposite. For the amount of money we spent it would be nice if they  
would stand behind their product and make sure their customers were satisfied and

1 that they were selling good quality product, but unfortunately this is not the case at  
2 all."

3 123. Plaintiff is informed and believes that Lumber Liquidators' website  
4 advertising its Dream Home brand of laminate flooring products includes a video  
5 testimonial which features a family with two dogs and two cats, and the Lumber  
6 Liquidators' salesman shown on that video claims, "Kensington Manor has a high,  
7 high durability factor. That's something people are looking for when they have  
8 animals." The screen shot of the video depicting a large dog appears on every  
9 webpage for the Dream Home line of laminate flooring products, implying that  
10 these products are durable enough to withstand scratches from pet traffic.

11 124. Defendant concealed and suppressed material facts concerning the  
12 durability of its Dream Home laminate flooring products. Defendant failed to  
13 disclose that its Dream Home laminate flooring products were defective, not AC3  
14 rated, not "very durable", were not "premium" and would scratch, fade, stain,  
15 bubble, delaminate and curl during ordinary residential foot and pet traffic. As  
16 alleged above, the Laminates were defective, were of a lesser quality than advertised  
17 and had an inferior ability to withstand abrasion than advertised. These facts were  
18 not known to Plaintiff and the proposed Class at the time of their purchase. These  
19 omitted and concealed facts were material because they directly impact the useful  
20 life and durability of the products.

21 125. Alternatively, Defendant intentionally failed to disclose the fact that the  
22 Laminates were defective in that they were not fit for their intended use, a fact only  
23 known to Defendant. Plaintiff and the proposed Class could not have discovered it  
24 through the exercise of reasonable diligence. Plaintiff is informed and thereon  
25 believes that Defendant knew of the durability defects of the Laminates from its  
26 product testing and Defendant's self-proclaimed "robust Quality Assurance  
27 program" performed prior to placing the laminate flooring products into the stream  
28 of commerce.

1           126. Plaintiff and the proposed Class reasonably relied on Defendant's  
2 representations. Defendant knew or ought to have known that Plaintiff and the  
3 proposed Class relied and/or would have reasonably relied upon Defendant to sell  
4 laminate wood flooring products in which the entire lifetime of the goods could be  
5 fully used without prematurely becoming damaged and/or failing. Defendant's  
6 knowledge that its laminate flooring products were not fit for their intended use,  
7 combined with Defendant's knowledge that Plaintiff and the proposed Class relied  
8 upon Defendant to communicate the true durability, or lack thereof, of its laminate  
9 flooring products creates a legal obligation on Defendant's part to disclose to  
10 Plaintiff and the Class these facts. Defendant is in a superior position to know the  
11 truth about, and the nature of, the durability and useful life of its laminate flooring  
12 products.

13           127. Defendant intended to deceive Plaintiff and the Class by failing to  
14 disclose that its laminate flooring products are not fit for their intended purpose,  
15 will fail prematurely long before the end of the 25 and 30 year warranty periods,  
16 were not "very durable" and do not have the AC3 rating.

17           128. Defendant's failure to disclose these facts was material. Plaintiff and  
18 the proposed Class would not have purchased their laminate flooring had they  
19 known that their laminate flooring products were not fit for their intended use,  
20 would prematurely fail long before the end of the 25 and 30 year warranty periods,  
21 were not "very durable" and did not have an AC rating of AC3.

22           129. Plaintiff and the proposed Class were harmed. As a proximate result of  
23 Defendant's conduct as set forth in this cause of action, Plaintiff and the proposed  
24 Class will now be required to remove and replace their defective and damaged  
25 laminate flooring.

26           130. Defendant's concealment was a substantial factor in causing that harm.

27           131. The wrongful conduct of Defendant, as alleged herein, was willful,  
28 oppressive, immoral, unethical, unscrupulous, substantially injurious, malicious,



1 and/or in conscious disregard for the wellbeing of Plaintiff and the proposed Class.  
2 Defendant intended to cause injury to the Plaintiff and the proposed Class placing  
3 profits over providing a higher quality product which was advertised to Plaintiff.  
4 Defendant engaged and continues to engage in despicable conduct with a willful and  
5 conscious disregard of the rights or safety of others. Defendant subjected, and  
6 continues to subject, Plaintiff and the proposed Class to cruel and unjust hardship.  
7 Accordingly, Plaintiff and the proposed Class members are entitled to an award of  
8 punitive damages against Defendant in an amount to deter it from similar conduct in  
9 the future.

10 **THIRD CAUSE OF ACTION**

11 **Violation of The Magnuson-Moss Warranty Act**  
12 **15 U.S.C. §§ 2301, et seq.**

13 **(On behalf of the National Class, or alternatively, the Illinois Class)**

14 132. Plaintiff, individually and on behalf of all others similarly situated,  
15 adopts and incorporates by reference all foregoing allegations as though fully set  
16 forth herein.

17 133. Plaintiff brings this claim on behalf of herself and on behalf of each and  
18 every member of the proposed Class.

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

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

23 136. Lumber Liquidators' Dream Home proprietary line of laminate flooring  
24 products was purchased separate and apart from the initial construction of the homes  
25 of the Plaintiff and the members of the proposed Class into which it was installed  
26 and constitutes a "consumer product" within the meaning of 15 U.S.C. § 2301(1).

27 137. Pursuant to section 2308(a) of the Magnuson-Moss Warranty Act, "No  
28 supplier may disclaim or modify . . . any implied warranty to a consumer with



1 respect to such consumer product if (1) such supplier makes any written warranty to  
2 the consumer with respect to such consumer product, . . ."

3 138. Furthermore, section 2308(c) provides that "A disclaimer, modification,  
4 or limitation made in violation of this section shall be ineffective for purposes of this  
5 chapter and State law."

6 139. Lumber Liquidators' express warranties and written affirmations of fact  
7 regarding the durability and level of performance over time of the Laminates  
8 constitutes a written warranty within the meaning of 15 U.S.C. § 2301(6)(A).

9 140. Lumber Liquidators breached its warranties (express and implied) by  
10 manufacturing, selling, and/or distributing the Laminates that are not "very durable",  
11 not "scratch resistant," which fail prematurely long before the expiration of the  
12 stated warranty duration, and have an Abrasion Class rating below "AC3", without  
13 knowledge of the truth of such representations.

14 141. Defendant further violated 15 U.S.C. §2302 by failing to make a full  
15 and conspicuous disclosure of the terms and conditions of the 25 and 30 year  
16 warranties advertised on Defendant's website and on page 1 of the Invoice in the  
17 product description of Laminates sold to Plaintiff and the Members of the proposed  
18 Class.

19 142. Lumber Liquidators breached its warranties to Plaintiff and the  
20 members of the proposed Class because these written affirmations of fact or written  
21 promises made in connection with the sale of the Laminates relate to the nature of  
22 the material and affirms or promises that such material will meet a specified level of  
23 performance over a specified period of time and in fact fail to do so. 15 U.S.C.  
24 § 2301(6)(A).

25 143. Lumber Liquidators' breach deprived Plaintiff and the members of the  
26 proposed Class of the benefit of their bargain.

27 144. The amount in controversy of Plaintiff's individual claim exceeds the  
28 value of \$25. In addition, the amount in controversy exceeds the value of \$50,000

1 (exclusive of interest and costs) computed on the basis of all claims to be  
2 determined in this action.

3 145. Before filing this action, Plaintiff notified Defendant of its breach of  
4 written warranties and of its violations of the Magnuson-Moss Warranty Act, and  
5 Defendant has failed to adequately cure those breaches. Additionally, Defendant  
6 was notified of its breaches, *inter alia*, through a putative class action filed in Los  
7 Angeles, California. Defendant has had adequate and reasonable opportunity to cure  
8 its breaches of or fulfill its warranty obligations, but has failed to do so.

9 146. Pursuant to the provisions of 15 U.S.C. § 2310(e), in the case of a class  
10 action (as is the case here), Plaintiff will provide Defendant with further notice and  
11 reasonable opportunity to cure, once the representative capacity of the named  
12 Plaintiff has been established in the application of Rule 23 of the Federal Rules of  
13 Civil Procedure.

14 147. As a direct and proximate result of Defendant's breaches of its written  
15 and implied warranties, Plaintiff and the other members of the proposed Class  
16 sustained damages in amounts to be determined at trial.

17 **FOURTH CAUSE OF ACTION**

18 **Violation of Illinois Consumer Fraud and Deceptive Business Practices Act,**  
19 **815 ILCS 505/1, et seq.**

20 148. Plaintiff, on behalf of herself and all others similarly situated, adopts  
21 and incorporates by reference all foregoing allegations as though fully set forth  
22 herein.

23 149. The conduct described above and throughout this Third Amended  
24 Complaint took place within the State of Illinois and constitutes unfair business  
25 practices in violation of Illinois Consumer Fraud and Deceptive Business Practices  
26 Act, 815 ILCS 505/1, et seq. (hereinafter, "CFA").

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1           150. The CFA applies to the claims of Plaintiff and all Illinois Class  
2 Members because the conduct which constitutes violations of the CFA by the  
3 Defendant occurred within the State of Illinois.

4           151. The CFA prohibits unfair methods of competition and unfair and  
5 deceptive acts or practices, including among other things, “the use or employment of  
6 any deception, fraud, false pretense, false promise, misrepresentation or the  
7 concealment, suppression or omission of any material fact, . . . whether any person  
8 has in fact been misled, deceived or damaged thereby.”

9           152. Lumber Liquidators engaged in the concealment, suppression, or  
10 omission in violation of the CFA when, in selling and advertising the Chinese  
11 Flooring, Lumber Liquidators represented that its Dream Home laminate flooring  
12 has an Abrasion Rating of AC3 when Lumber Liquidators knew that the flooring  
13 had a lower rating and quality.

14           153. Lumber Liquidators engaged in the concealment, suppression, or  
15 omission of the aforementioned material facts with the intent that others, such as  
16 Plaintiff, Plaintiff’s builders, Class Members, Class Members’ builders, and/or the  
17 general public would rely upon the concealment, suppression, or omission of such  
18 material facts and purchase Lumber Liquidators’ Dream Home laminate flooring  
19 containing said defect.

20           154. Plaintiff, Plaintiff’s builders, Class Members, and/or Class Members’  
21 builders would not have purchased the Dream Home laminate flooring had they  
22 known or become informed of the low Abrasion Rating, and poor quality and  
23 durability of the flooring.

24           155. Lumber Liquidators’ concealment, suppression, or omission of material  
25 facts as alleged herein constitute unfair, deceptive and fraudulent business practices  
26 within the meaning of the CFA.

27           156. Lumber Liquidators has acted unfairly and deceptively by  
28 misrepresenting the quality of the Dream Home laminate flooring.

1           157. Lumber Liquidators either knew, or should have known, that the Dream  
2 Home laminate flooring was defectively designed and/or manufactured and had a  
3 lower Abrasion Rating, quality and durability than represented by Lumber  
4 Liquidators, which would result in severe damages to the Plaintiff's person and  
5 property.

6           158. Lumber Liquidators knew that, at the time the Dream Home laminate  
7 flooring left Lumber Liquidators' control, the flooring had the lower Abrasion  
8 Rating, quality and durability. At the time of sale, the Dream Home laminate  
9 flooring contained the lower Abrasion Rating, quality and durability. The lower  
10 Abrasion Rating rendered the flooring unable to perform the ordinary purposes for  
11 which it was used as well as cause the resulting damage described herein.

12           159. As a direct and proximate cause of the violation of the CFA, described  
13 above, Plaintiff and members of the Class have been injured in that they have  
14 purchased homes or other structures with the Dream Home laminate flooring based  
15 on nondisclosure of material facts alleged above. Had Plaintiff and Class Members  
16 known the poor quality and low Abrasion Rating of the Dream Home laminate  
17 flooring used on their structures, they would not have purchased their structures, or  
18 would have paid a lower price for their structures.

19           160. Lumber Liquidators used unfair methods of competition and unfair or  
20 deceptive acts or practices in conducting their businesses. This conduct constitutes  
21 fraud within meaning of the CFA. This unlawful conduct is continuing, with no  
22 indication that Lumber Liquidators will cease.

23           161. As a direct and proximate result of Lumber Liquidators' unfair and  
24 deceptive acts and practices, Plaintiff and the other members of the Class will suffer  
25 damages, which include, without limitation, costs to inspect, repair or replace their  
26 flooring and other property, in an amount to be determined at trial.

27           162. As a result of the acts of consumer fraud described above, Plaintiff and  
28 the Class have suffered ascertainable loss in the form of actual damages that include

1 the purchase price of the products for which Lumber Liquidators is liable to the  
2 Plaintiff and the Class for treble their ascertainable losses, plus attorneys' fees and  
3 costs, along with equitable relief prayed for herein in this Complaint.

4 **PRAYER FOR RELIEF**

5 WHEREFORE, Plaintiff, on behalf of herself and all other individuals  
6 similarly situated, requests the following relief:

7 A. An order certifying this action as a class action under F.R.C.P. 23,  
8 defining the Class as requested herein, appointing the undersigned as  
9 Class counsel, and finding that Plaintiff is a proper representative of the  
10 proposed Class;

11 B. Injunctive relief requiring Defendant to inform Plaintiff and members  
12 of the proposed Class that:

- 13 • Lumber Liquidators has not effectively disclaimed the implied  
14 warranty of merchantability, and that the Laminates continue to  
15 be subject to such implied warranties;
- 16 • the warranty limitations contained in Defendant's "limited  
17 warranties" are unenforceable;
- 18 • Plaintiff and proposed Class members are entitled to restitution,  
19 including reimbursement for any installation, removal, and  
20 replacement costs; and that
- 21 • Plaintiff and proposed Class members may be entitled to other  
22 relief as awarded by this Court;

23 C. Restitution of all monies Defendant received from Plaintiff and the  
24 proposed Class;

25 D. Damages to be determined at trial including actual, compensatory, and  
26 consequential damages incurred by Plaintiff and proposed Class  
27 Members;

28 E. Punitive damages where allowed;

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F. An award of reasonable attorney's fees and costs; and  
G. That the Court award such other and further relief as this Court may  
deem appropriate.

DATED: September 6, 2016

ROBERTSON & ASSOCIATES, LLP

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