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Counsel for Plaintiff

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

MONGKOL MAHAVONGTRAKUL,
individually and on behalf of other similarly
situated individuals,

Plaintiff,

v.

INLAND PRODUCTS, INC.,

Defendant.

Case No. 3:18-cv-07261

CLASS ACTION

**COMPLAINT FOR DAMAGES AND
INJUNCTIVE RELIEF**

DEMAND FOR JURY TRIAL

1 Plaintiff Mongkol Mahavongtrakul (“Plaintiff”), on behalf of other similarly situated
2 individuals, alleges the following against defendant Inland Products, Inc. (“Inland” or the
3 “Company”), upon personal knowledge as to himself and his own acts and upon information and
4 belief – based upon the investigation made by his attorneys – as to all other matters, as follows:

5 **INTRODUCTION**

6 1. In recent years consumers have become increasingly dependent on portable
7 electronic devices like smart phones, tablets and laptop computers (“PED”). PEDs have made it
8 convenient for consumers to constantly stay in communication with colleagues, friends, and loved
9 ones, and to immediately access information. However, like any electronic device, PEDs require
10 power and their internal batteries must be periodically recharged.

11 2. To address the needs of consumers to use PEDs during travel, or when the consumer
12 otherwise lacks access to an electrical outlet, the portable charger industry emerged. A portable
13 charger, often called a power bank (“Power Bank”), is a small, portable power source consumers
14 can use to recharge their PEDs during travel. The greater the capacity of the Power Bank, as is
15 expressed in milliampere-hours (“mAh”), the more times the Power Bank can be used to recharge
16 PEDs before the Power Bank must be recharged itself. Thus, consumers prefer and are willing to
17 pay a premium for Power Banks with higher mAh ratings.

18 3. Inland manufactures, markets, and distributes for sale nationwide to consumers a
19 number of Power Banks under the ProHT label (the “Products”). Inland does so by prominently
20 representing the Products’ capacities as measured in mAh. Unfortunately for consumers, testing
21 has shown the Products’ actual capacity is substantially lower than what Inland represents.

22 4. By deceiving consumers about the Products’ capacity as detailed herein, Inland is
23 able to sell more of, and charge more for, the Products than it could if they were labeled accurately.
24 Further, Inland is incentivized to mislead consumers to take market share away from competing
25 products, thereby increasing its own sales and profits.

26 5. This is a proposed class action brought by Plaintiff, individually and on behalf of a
27 class of similarly situated individuals, against Inland, seeking redress for the Company’s unjust,

1 unfair, and deceptive practices in misrepresenting the capacity of the Products in violation of state
2 law during the applicable statute of limitations period (“Class Period”).

3 **JURISDICTION AND VENUE**

4 6. This Court has personal jurisdiction over the parties in this case. Inland’s principal
5 place of business is located within California and Inland purposefully avails itself of the California
6 consumer market and distributes the Products to thousands throughout California.

7 7. This Court has original subject-matter jurisdiction over this proposed class action
8 pursuant to 28 U.S.C. § 1332(d), which, under the provisions of the Class Action Fairness Act
9 (“CAFA”), explicitly provides for the original jurisdiction of the federal courts in any class action
10 in which the proposed plaintiff class is comprised of at least 100 members, any member of the
11 plaintiff class is a citizen of a State different from any defendant, and the matter in controversy
12 exceeds the sum of \$5,000,000.00, exclusive of interest and costs. The total claims of individual
13 members of the proposed Class (as defined herein) are well in excess of \$5,000,000.00 in the
14 aggregate, exclusive of interest and costs.

15 8. Venue is proper in this District under 28 U.S.C. § 1391(a). Substantial acts in
16 furtherance of the alleged improper conduct, including the dissemination of false and misleading
17 information regarding the Products, occurred within this District.

18 **INTRADISTRICT ASSIGNMENT**

19 9. Assignment to the San Francisco or Oakland Division is appropriate under Civil
20 L.R. 3-2(c) and (d) because a substantial part of the events or omissions that give rise to the claim,
21 including the dissemination of false and misleading information regarding the Products, occurred
22 within the County of Contra Costa.

23 **PARTIES**

24 10. Plaintiff Mongkol Mahavongtrakul is a resident of Martinez, California. Plaintiff
25 purchased the Products at Fry’s Electronics in Contra Costa County, California, most recently in
26 November 2017.

1 11. In making his decision to purchase the Products, Plaintiff read and relied on
2 Inland’s representations regarding their capacity. Had Plaintiff known the truth, that the Products’
3 mAh was really less than what Inland represented, he would not have purchased them or would
4 not have been willing to pay as much as he paid for the Products.

5 12. Plaintiff frequently uses PEDs during travel and when he otherwise does not have
6 access to an electrical outlet. Plaintiff would consider purchasing the Products again if he could
7 trust that Inland’s representations about their mAh ratings were correct going forward, such as if
8 the Products were redesigned to make Inland’s representations about them correct, and if the prices
9 fairly reflected the actual mAh capacity of the batteries. He also has a strong interest in ensuring
10 honesty in the marketplace for Power Banks.

11 13. Defendant Inland Products, Inc. is organized under the laws of the State of
12 California with its principle place of business at 1410 E. Walnut Avenue, Fullerton, California
13 92831.

14 **INLAND DECEPTIVELY MARKETS ITS POWER BANKS.**

15 14. Millions of Americans depend on PEDs to conduct their daily lives. PEDs have
16 made it more convenient for consumers to constantly stay in communication with colleagues,
17 friends, and loved ones, and to immediately access information.

18 15. To address the needs of consumers to power their PEDs during travel, or when they
19 otherwise lack access to an electrical outlet, an industry for Power Banks has emerged. The sale
20 of Power Banks now generates more than \$15 billion in revenue each year.

21 16. The most important factor for consumers in choosing a Power Bank is its capacity,
22 which is measured in milliampere-hours, or “mAh.” The higher the mAh, the greater the number
23 of times a Power Bank can be used to recharge PEDs before the Power Bank itself must be
24 recharged. Consumers thus have a strong preference for, and pay more for, Power Banks with a
25 higher mAh. Accordingly, for most Power Banks, the mAh rating is featured prominently in the
26 product’s advertising.

27

1 17. Inland manufactures, markets, and distributes for sale nationwide to consumers a
2 number of Power Banks. Inland sells the Products directly from its website, through Amazon.com,
3 and through other retailers. Everywhere the Products are sold, at the point of sale and on the
4 Products' packaging, Inland prominently represents the Products' capacity as measured in mAh.

5 18. Unfortunately, testing has shown that Inland has substantially inflated the Products'
6 mAh ratings. Plaintiff tested Inland's Power Banks (the same models the Plaintiff purchased)
7 using a skilled and experienced testing company. The results are represented in the table below.

Capacity Represented (in mAh)	Actual Capacity (in mAh)
10400	5840
20800	14991

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13 19. Upon information and belief, Inland knew, at the time it sold the Products, that the
14 Products' true capacity was substantially less than what Inland had represented. Inland
15 intentionally misrepresented the Products' capacity to induce the Plaintiff and other unsuspecting
16 consumers to purchase and pay a premium for the Products.

17 20. Inland has profited enormously from its false and misleading representations about
18 the Products. The purpose of this action is to put an end to Inland's deceptive marketing of the
19 Products and to provide consumers with monetary and injunctive relief.

CLASS ALLEGATIONS

20
21 21. Pursuant to Rule 23(b)(2) and (b)(3) of the Federal Rules of Civil Procedure,
22 Plaintiff brings this action on behalf of himself and all other similarly situated individuals within
23 the United States (the "Nationwide Class"), defined as follows:

24 All consumers who purchased the Products within the United States.
25 Excluded from the Class is anyone who received a refund, as well
26 as any of Inland's officers, directors, or employees; officers,
27 directors, or employees of any entity in which Inland currently has
 or has had a controlling interest; and Inland's legal representatives,
 heirs, successors, and assigns.

1 22. Additionally, Plaintiff brings this action pursuant to Rule 23 of the Federal Rules
2 of Civil Procedure on behalf of himself and similarly situated individuals within certain States (the
3 “Multi-State Class”), defined as follows:

4 All consumers who purchased the Products in California, Florida,
5 Illinois, Massachusetts, Michigan, New Jersey, New York, North
6 Carolina, Ohio, and Washington. Excluded from the Multi-State
7 Class are any of Inland’s officers, directors, or employees; officers,
8 directors, or employees of any entity in which Inland currently has
or has had a controlling interest; and Inland’s legal representatives,
heirs, successors, and assigns.

9 The Nationwide Class and Multi-State Class are referred to collectively as the “Classes.”

10 23. There are questions of law or fact common to the Classes that predominate over
11 any questions affecting only individual members, including:

- 12 (a) whether Inland misrepresented the Products’ mAh ratings;
- 13 (b) whether Inland’s conduct was unfair and/or deceptive;
- 14 (c) whether Inland has been unjustly enriched as a result of the unlawful,
15 fraudulent, and unfair conduct alleged in this Complaint such that it would
16 be inequitable for Inland to retain the benefits conferred upon it by Plaintiff
17 and the Classes;
- 18 (d) whether Inland’s conduct constitutes a breach of express warranty;
- 19 (e) whether Inland violated state consumer protection laws;
- 20 (f) whether Plaintiff and the Classes have sustained damages and, if so, the
21 proper measure thereof;
- 22 (g) whether Plaintiff and the Classes are entitled to restitution, and if so, the
23 proper measure thereof; and
- 24 (h) whether Inland should be enjoined from continuing to sell the Products as
25 currently labeled;

26 24. Plaintiff’s claims are typical of those of the members of the Classes, because
27 Plaintiff, like all members of the Classes, purchased, in a typical consumer setting, Inland’s

1 Products bearing the claim that their capacity is greater than it really is, and Plaintiff sustained
2 damages from Inland's wrongful conduct.

3 25. Plaintiff will fairly and adequately protect the interests of the Classes and has
4 retained counsel that is experienced in litigating complex class actions. Plaintiff has no interests
5 which conflict with those of the Classes.

6 26. A class action is superior to other available methods for the fair and efficient
7 adjudication of this controversy.

8 27. No member of the Classes has a substantial interest in individually controlling the
9 prosecution of a separate action. The damages for each individual member of the Classes will
10 likely be relatively small, especially given the burden and expense of individual prosecution of the
11 complex litigation necessitated by Inland's conduct. Thus, it would be virtually impossible for
12 them individually to effectively redress the wrongs done to them.

13 28. The prerequisites to maintaining a class action for injunctive or equitable relief are
14 met as Inland has acted or refused to act on grounds generally applicable to the Classes thereby
15 making appropriate final injunctive or equitable relief with respect to the Classes.

16 29. The prosecution of separate actions by members of the Classes would create a risk
17 of establishing inconsistent rulings and/or incompatible standards of conduct for Inland. For
18 example, one court might enjoin Inland from performing the challenged acts, whereas another
19 might not. Additionally, individual actions could be dispositive of the interests of members of the
20 Classes who are not parties to such actions.

21 30. Inland's conduct is generally applicable to the Classes as a whole and Plaintiff
22 seeks, *inter alia*, equitable remedies with respect to the Classes as a whole. As such, Inland's
23 systematic policies and practices make declaratory relief with respect to the Classes as a whole
24 appropriate.

CAUSES OF ACTION

COUNT I

**(Unfair and Deceptive Acts and Practices in
Violation of the Consumers Legal Remedies Act,
on Behalf of the Nationwide Class)**

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5 31. Plaintiff incorporates by reference and realleges herein all paragraphs alleged
6 above.

7 32. This cause of action is brought pursuant to California’s Consumers Legal Remedies
8 Act, Cal. Civ. Code §§ 1750-1785 (the “CLRA”).

9 33. The Plaintiff and the other members of the Nationwide Class are “consumers,” as
10 the term is defined by California Civil Code § 1761(d), because they bought the Products for
11 personal, family, or household purposes.

12 34. The Plaintiff, the other members of the Nationwide Class, and Inland have engaged
13 in “transactions,” as that term is defined by California Civil Code §1761(e).

14 35. The conduct alleged in this Complaint constitutes unfair methods of competition
15 and unfair and deceptive acts and practices for the purpose of the CLRA, and the conduct was
16 undertaken by Inland in transactions intended to result in, and which did result in, the sale of goods
17 to consumers.

18 36. As alleged more fully above, Inland has violated the CLRA by falsely representing
19 to the Plaintiff and the other members of the Nationwide Class that the Products’ capacity is greater
20 than it actually is.

21 37. As a result of engaging in such conduct, Inland has violated California Civil Code
22 §§ 1770(a)(5), 1770(a)(7), and 1770(a)(9).

23 38. Pursuant to California Civil Code § 1780(a)(2) and (a)(5), the Plaintiff seeks an
24 order of this Court that includes, but is not limited to, an order requiring Inland to remove and/or
25 refrain from making representations that the Products’ capacity is greater than it actually is.

26 39. The Plaintiff and the Nationwide Class may be irreparably harmed and/or denied
27 an effective and complete remedy if such an order is not granted.

1 and advertising, the World Wide Web (Internet), the Products' packaging and labeling, and other
2 promotional materials and also offered for sale and advertised the Products on a nationwide basis,
3 including in California.

4 46. The misrepresentations and non-disclosures by Inland of the material facts detailed
5 above constitute false and misleading advertising, and therefore constitute a violation of the False
6 Advertising Law ("FAL") Cal. Bus. & Prof. Code § 17500, *et seq.*

7 47. Said advertisements and inducements were made within and from the State of
8 California and come within the definition of advertising contained in the FAL in that such
9 promotional materials were intended as inducements to purchase the Products and are statements
10 disseminated by Inland to Plaintiff and the other Nationwide Class members that were intended to
11 reach Plaintiff and the other Nationwide Class members. Inland knew, or in the exercise of
12 reasonable care should have known, that these representations were misleading and deceptive.

13 48. The above acts of Inland did and were likely to deceive reasonable consumers,
14 including Plaintiff and the other members of the Nationwide Class, by misrepresenting the capacity
15 of the Products, in violation of the "false" and "misleading" prongs of the FAL.

16 49. Plaintiff and the other members of the Nationwide Class have suffered injury in
17 fact and have lost money or property as a result of Inland's violations of Cal. Bus. & Prof. Code §
18 17500 *et seq.*

19 50. Pursuant to California Business and Professions Code §§ 17203 and 17535,
20 Plaintiff and the other members of the Nationwide Class seek an order of this Court that includes,
21 but is not limited to, an order requiring Inland to remove and/or refrain from making
22 representations on the Products' packaging and in its advertising that the Products' capacity is
23 greater than it really is.

COUNT III

**(Violation of California’s Unfair Competition Law,
on Behalf of the Nationwide Class)**

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3 51. Plaintiff incorporates by reference and realleges herein all paragraphs alleged
4 above.

5 52. By committing the acts and practices alleged herein, Inland has violated
6 California’s Unfair Competition Law (“UCL”), Cal. Bus. & Prof. Code §§ 17200-17210, as to the
7 Nationwide Class as a whole, by engaging in unlawful, fraudulent, and unfair conduct.

8 53. Inland has violated the UCL’s proscription against engaging in *unlawful* conduct
9 as a result of:

10 (a) its violations of the CLRA, Cal. Civ. Code § 1770(a)(5), (a)(7), and (a)(9), as
11 alleged above; and

12 (b) its violations of the FAL, Cal. Bus. & Prof. Code § 17500 *et seq.*, as alleged
13 above

14 54. Inland’s acts and practices described above also violate the UCL’s proscription
15 against engaging in fraudulent conduct.

16 55. As more fully described above, Inland’s false and misleading marketing,
17 advertising, packaging, and labeling of the Products is likely to deceive reasonable consumers.
18 Indeed, Plaintiff and the members of the Nationwide Class were unquestionably deceived
19 regarding the capacity of the Products, as Inland’s marketing, advertising, packaging, and labeling
20 of the Products misrepresent and/or omit the true facts concerning the benefits of the Products.
21 Said acts are fraudulent business practices.

22 56. Inland’s acts and practices described above also violate the UCL’s proscription
23 against engaging in *unfair* conduct.

24 57. Plaintiff and the Nationwide Class suffered a substantial injury by virtue of buying
25 the Products that they would not have purchased absent Inland’s unlawful, fraudulent, and unfair
26 marketing, advertising, packaging, and labeling or by virtue of paying an excessive premium price
27

1 for the unlawfully, fraudulently, and unfairly marketed, advertised, packaged, and labeled
2 Products.

3 58. There is no benefit to consumers or competition from the deceptive marketing and
4 labeling of the Products, which Inland misrepresents as having a greater capacity than they actually
5 do.

6 59. Plaintiff and the Nationwide Class had no way of reasonably knowing that the
7 Products they purchased were not as marketed, advertised, packaged, or labeled. Thus, they could
8 not have reasonably avoided the injury each of them suffered.

9 60. The gravity of the consequences of Inland's conduct as described above outweighs
10 any justification, motive, or reason therefore, particularly considering the available legal
11 alternatives that exist in the marketplace, and such conduct is immoral, unethical, unscrupulous,
12 offends established public policy, or is substantially injurious to Plaintiff and the other members
13 of the Nationwide Class.

14 61. Inland's violations of the UCL continue to this day.

15 62. Pursuant to California Business and Professions Code § 17203, Plaintiff and the
16 Nationwide Class seek an order of this Court that includes, but is not limited to, an order requiring
17 Inland to:

18 (a) remove and/or refrain from making representations that the Products' capacity
19 is greater than it really is;

20 (b) provide restitution to Plaintiff and the Nationwide Class;

21 (c) disgorge all revenues obtained as a result of violations of the UCL; and

22 (d) pay Plaintiff's and the Nationwide Class' attorneys' fees and costs.

23 **COUNT IV**

24 **(Violation of Materially Identical State Consumer Protection Statutes,
on Behalf of the Multi-State Class)**

25 63. Plaintiff incorporates by reference and realleges herein all paragraphs alleged
26 above.

1 64. Inland is engaged in “trade” and “commerce” as it distributes the Products to retail
2 stores for sale to consumers within this and each of the states listed below.

3 65. Inland’s representations regarding the capacity of the Products were material to a
4 reasonable consumer and likely to affect consumer decisions and conduct.

5 66. Inland has used and employed unfair methods of competition and unfair or
6 deceptive acts or practices in the conduct of trade or commerce.

7 67. Inland’s acts and practices are immoral, unethical, oppressive and unscrupulous.

8 68. Inland’s conduct is substantially injurious to consumers. Such conduct has, and
9 continues to cause, substantial injury to consumers because consumers would not have paid such
10 a high price for the Products but for Inland’s false promotion of the Products’ electrical storage
11 capacity. Consumers have thus overpaid for the Products and such injury is not outweighed by
12 any countervailing benefits to consumers or competition.

13 69. No benefit to consumers or competition results from Inland’s conduct. Since
14 reasonable consumers are deceived by Inland’s representations of the Products and they were
15 injured as a result, consumers could not have reasonably avoided such injury.

16 70. The foregoing unfair and deceptive practices directly, foreseeably and proximately
17 caused Plaintiff and the Multi-State Class to suffer an ascertainable loss when they paid a premium
18 for the Products.

19 71. The practices discussed above all constitute unfair competition or unfair,
20 unconscionable, deceptive, or unlawful acts or business practices in violation of at least the
21 following state consumer protection statutes:¹

22 (a) **California Consumer Legal Remedies Act**, Cal. Civ. Code § 1750, *et seq.*,

23 (b) **California Unfair Competition Law**, Cal. Bus. & Prof. Code § 17200, *et seq.*;

24
25
26 ¹ There is no material conflict between these state statutes because these state statutes (1) do not
27 require reliance by unnamed class members; (2) do not require scienter; and (3) allow class
actions.

- 1 (c) **Florida Deceptive and Unfair Trade Practices Act**, Fla. Stat. § 501.201, *et*
- 2 *seq.*;
- 3 (d) **Illinois Consumer Fraud and Deceptive Business Practices Act**, 815 Ill.
- 4 Comp. Stat. § 505/1, *et seq.*;
- 5 (e) **Massachusetts Regulation of Business Practices for Consumers' Protection**
- 6 **Act**, Mass. Gen. Laws Ann. ch. 93A, § 1 *et seq.*;
- 7 (f) **Michigan Consumer Protection Act**, Mich. Comp. Laws § 445.901 *et seq.*;
- 8 (g) **New Jersey Consumer Fraud Act**, N.J. Stat. Ann. § 56:8-1, *et seq.*;
- 9 (h) **New York Deceptive Acts and Practices Act**, N.Y. Gen. Bus. Law § 349, *et*
- 10 *seq.*;
- 11 (i) **North Carolina Unfair and Deceptive Trade Practices Act**, N.C. Gen. Stat.
- 12 § 75-1.1(a).
- 13 (j) **Ohio's Consumers Sales Practice Act**, Ohio Revised Code § 1345, *et seq.*
- 14 (k) **Washington Consumer Protection Act**, Wash. Rev. Code § 19.86.010, *et*
- 15 *seq.*;

16 72. The foregoing unfair and deceptive practices directly, foreseeably and proximately
17 caused Plaintiff and the members of the Multi-State Class to suffer an ascertainable loss when they
18 paid a premium for the Products over comparable products.

19 73. Plaintiff and the Multi-State Class are entitled to recover damages and other
20 appropriate relief, as alleged below.²

21 **COUNT V**
22 **(Breach of Express Warranty on Behalf**
23 **of the Classes)**

24 74. Plaintiff incorporates by reference and realleges herein all paragraphs alleged
25 above.

26 _____
27 ² As is alleged in Count I, at this time Plaintiff only seeks equitable relief and attorneys' fees for Inland's alleged CLRA violations.

1 75. Inland’s representations regarding the Products’ capacity constitutes affirmations
2 of fact.

3 76. Inland’s representations that the Products’ capacity is greater than it really is relates
4 to the goods and became part of the basis of the bargain between Inland and purchasers of the
5 Products.

6 77. Plaintiff and the members of the Classes purchased the Products, believing that they
7 conformed to the express warranties.

8 78. As set forth in the paragraphs above, Inland’s statements concerning the Products
9 are false.

10 79. All conditions precedent to Inland’s liability under the above-referenced contract
11 have been performed by Plaintiff and the other members of the Classes.

12 80. Inland breached its express warranties about the Products because, as alleged
13 above, the Products’ capacity was lower than Inland represented. Inland therefore breached the
14 applicable state statutes and common law.

15 81. As a result of Inland’s breaches of express warranty, Plaintiff and the other
16 members of the Classes were damaged in the amount of the purchase price they paid for the
17 Products, or in the amount they paid based upon the misrepresentations, in amounts to be proven
18 at trial.

19 82. On November 9, 2018, within a reasonable time after he knew or should have
20 known of such breach, Plaintiff, on behalf of himself and the other members of the Classes, placed
21 Inland on notice thereof.

22 83. As a proximate result of the breach of warranties by Inland, Plaintiff and the other
23 members of the Classes did not receive goods as warranted. Among other things, Plaintiff and the
24 other members of the Classes did not receive the benefit of the bargain and have suffered other
25 injuries as detailed above. Moreover, had Plaintiff and the members of the Classes known the true
26 facts, they either would not have purchased the Products, or would not have been willing to pay
27 the price Inland charged for the Products.

1 84. Wherefore Plaintiff, on behalf of the Classes, prays for relief as set forth herein.

2 **COUNT VI**
3 **(Unjust Enrichment on Behalf of**
4 **the Classes)**

5 85. Plaintiff incorporates by reference and realleges herein all paragraphs alleged
6 above.

7 86. Plaintiff and the members of the Classes conferred benefits on Inland by purchasing
8 the Products and paying a greater price for them than they would have if Inland had truthfully
9 represented the Products' capacity.

10 87. Inland has knowledge of such benefits.

11 88. Inland's representations that the capacity of the Products is greater than it actually
12 is constitutes an affirmation of fact that is part of the basis of the bargain between Inland and
13 purchasers of the Products.

14 89. Inland made the above-referenced representations in order to induce Plaintiff and
15 the members of the Classes to purchase, purchase more of, or to pay more for the Products than
16 they otherwise would have, and Plaintiff and the members of the Classes relied on the
17 representations in purchasing the Products.

18 90. As a result of Inland's deceptive, fraudulent and misleading labeling, advertising,
19 and marketing of the Products, Plaintiff and other members of the Classes were induced to pay the
20 purchase price and pay more for the Products than they otherwise would have.

21 91. Plaintiff and the members of the Classes were unjustly deprived of payments
22 because they would not have purchased, or would have purchased less of, or would have paid less
23 for the Products if true facts had been known.

24 92. Inland was enriched at the expense of Plaintiff and the other members of the
25 Classes, thereby creating a quasi-contractual obligation on Inland to restore those ill-gotten gains
26 to Plaintiff and the members of the Classes.

27 93. Under the circumstances, it would be against equity and good conscience to permit

1 Inland to retain the ill-gotten benefits that it received from Plaintiff and the other members of the
2 Classes, in light of the fact that the Products they purchased were not what Inland purported them
3 to be. Thus, it would be unjust or inequitable for Inland to retain the benefit without restitution to
4 Plaintiff and the other members of the Classes for the monies paid to Inland for the Products.

5 94. As a direct and proximate result of Inland's unjust enrichment, Plaintiff and the
6 members of the Classes are entitled to restitution or restitutionary disgorgement, in an amount to
7 be proven at trial.

8 95. Wherefore Plaintiff, on behalf of the Classes, prays for relief as set forth herein.

9 **PRAYER FOR RELIEF**

10 WHEREFORE, Plaintiff, individually and on behalf of the other members of the Classes,
11 respectfully requests that the Court enter judgment against Inland as follows:

12 A. Certifying this action as a class action, with Classes as defined above;

13 B. Requiring that Inland pay for notifying the members of the Classes of the
14 pendency of this suit;

15 C. Awarding Plaintiff and the Classes injunctive relief;

16 D. Awarding Plaintiff and the Classes monetary damages in an amount to be
17 determined at trial, together with prejudgment interest;

18 E. Awarding Plaintiff and the Classes statutory damages in the maximum amount
19 provided by law;

20 F. Awarding Plaintiff and the Classes restitution of Inland's ill-gotten gains;

21 G. Awarding Plaintiff and the other members of the Classes the reasonable costs and
22 expenses of suit, including their attorneys' fees; and

23 H. For any further relief that the Court may deem appropriate.

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JURY TRIAL DEMANDED

Plaintiff demands a trial by jury for all claims so triable.

Respectfully submitted,

**FINKELSTEIN, BLANKINSHIP,
FREI-PEARSON & GARBER, LLP**

DATED: November 30, 2018

By: /s/ D. Greg Blankinship
D. Greg Blankinship

D. Greg Blankinship (*pro hac vice* forthcoming)
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KAPLAN FOX & KILSHEIMER LLP

DATED: November 30, 2018

By: /s/ Laurence D. King
Laurence D. King

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Counsel for Plaintiff

ATTESTATION PURSUANT TO CIVIL LOCAL RULE 5-1(i)(3)

I, Laurence D. King, attest that concurrence in the filing of this document has been obtained from the other signatory. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 30th day of November, 2018, at San Francisco, California.

s/ Laurence D. King
LAURENCE D. KING

CIVIL COVER SHEET

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

I. (a) PLAINTIFFS

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

(c) Attorneys (Firm Name, Address, and Telephone Number)

DEFENDANTS

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

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

Attorneys (If Known)

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

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

- 1 U.S. Government Plaintiff 3 Federal Question (U.S. Government Not a Party)
2 U.S. Government Defendant 4 Diversity (Indicate Citizenship of Parties in Item III)

Table with columns PTF, DEF and rows for Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country.

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

Large table with columns CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, HABEAS CORPUS, OTHER, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

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

- 1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 Transferred from Another District (specify) 6 Multidistrict Litigation-Transfer 8 Multidistrict Litigation-Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Brief description of cause:

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, Fed. R. Civ. P. DEMAND \$

CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S), IF ANY (See instructions):

JUDGE

DOCKET NUMBER

IX. DIVISIONAL ASSIGNMENT (Civil Local Rule 3-2)

(Place an "X" in One Box Only) SAN FRANCISCO/OAKLAND SAN JOSE EUREKA-MCKINLEYVILLE

DATE

SIGNATURE OF ATTORNEY OF RECORD

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS-CAND 44

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

- I. a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the “defendant” is the location of the tract of land involved.)
- c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section “(see attachment).”
- II. Jurisdiction.** The basis of jurisdiction is set forth under Federal Rule of Civil Procedure 8(a), which requires that jurisdictions be shown in pleadings. Place an “X” in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- (1) United States plaintiff. Jurisdiction based on 28 USC §§ 1345 and 1348. Suits by agencies and officers of the United States are included here.
 - (2) United States defendant. When the plaintiff is suing the United States, its officers or agencies, place an “X” in this box.
 - (3) Federal question. This refers to suits under 28 USC § 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 - (4) Diversity of citizenship. This refers to suits under 28 USC § 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS-CAND 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an “X” in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an “X” in one of the six boxes.
- (1) Original Proceedings. Cases originating in the United States district courts.
 - (2) Removed from State Court. Proceedings initiated in state courts may be removed to the district courts under Title 28 USC § 1441. When the petition for removal is granted, check this box.
 - (3) Remanded from Appellate Court. Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 - (4) Reinstated or Reopened. Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 - (5) Transferred from Another District. For cases transferred under Title 28 USC § 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 - (6) Multidistrict Litigation Transfer. Check this box when a multidistrict case is transferred into the district under authority of Title 28 USC § 1407. When this box is checked, do not check (5) above.
 - (8) Multidistrict Litigation Direct File. Check this box when a multidistrict litigation case is filed in the same district as the Master MDL docket. Please note that there is no Origin Code 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC § 553. Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint.** Class Action. Place an “X” in this box if you are filing a class action under Federal Rule of Civil Procedure 23. Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction. Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS-CAND 44 is used to identify related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.
- IX. Divisional Assignment.** If the Nature of Suit is under Property Rights or Prisoner Petitions or the matter is a Securities Class Action, leave this section blank. For all other cases, identify the divisional venue according to Civil Local Rule 3-2: “the county in which a substantial part of the events or omissions which give rise to the claim occurred or in which a substantial part of the property that is the subject of the action is situated.”
- Date and Attorney Signature.** Date and sign the civil cover sheet.