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18

19 Attorneys for Plaintiff PEOPLE OF THE STATE OF CALIFORNIA
20

21 SUPERIOR COURT OF THE STATE OF CALIFORNIA

22 FOR THE COUNTY OF MONTEREY

23 PEOPLE OF STATE OF CALIFORNIA,

24 Plaintiff

25 vs.

26 LENS CRAFTERS, INC.

27 Defendant
28

FILED

OCT 21 2005

LISA M. GALDOS
CLERK OF THE SUPERIOR COURT
DEPUTY

1 PLAINTIFF, PEOPLE OF THE STATE OF CALIFORNIA, alleges as follows:

2 1. PLAINTIFF, PEOPLE OF THE STATE OF CALIFORNIA (“People”),
3 brings its action by and through DEAN D. FLIPPO, District Attorney of Monterey County
4 (“Monterey D.A.”), and by and through JAMES P. WILLETT, District Attorney of San
5 Joaquin County (“San Joaquin D.A.”), and by and through STEVE COOLEY, District
6 Attorney of Los Angeles County (“L.A. D.A.”), and by and through MICHAEL A.
7 RAMOS, District Attorney of San Bernardino County (“San Bernardino D.A.”),
8 collectively referred to as “the District Attorneys.”

9 2. Pursuant to California Health and Safety Code section 25189, the District
10 Attorneys may bring actions in the name of the People of the State of California in a
11 superior court against any person who is alleged to have violated the Health and Safety
12 Code.

13 3. Pursuant to California Business and Professions Code sections 17203, 17204
14 and 17206, the District Attorneys may bring actions in the name of the People of the State
15 of California in a superior court for an injunction against any person who engages, had
16 engaged, or proposes to engage in unfair competition and for civil penalties for each act of
17 unfair competition.

18 JURISDICTION AND VENUE

19 4. Defendant, LensCrafters, Inc., transacts business throughout the State of
20 California. The alleged violations of law, hereinafter described, have been carried out
21 within the State of California. The alleged actions of Defendant, as set out below, are in
22 violation of the law and public policy of the State of California.

23 DEFENDANT

24 5. Defendant, LensCrafters, Inc. (“LensCrafters” or “Defendant”), is an Ohio
25 corporation with corporate offices located at 4000 Luxottica Place, Mason, Ohio.
26 LensCrafters is licensed to conduct business in the State of California and is, and at all
27 times relevant herein was, engaged in the business of making and selling optical eyeglasses
28 in retail stores in the State of California.

FACTUAL ALLEGATIONS

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2 6. As part of the lens finishing process in its retail stores, Defendant utilizes a
3 polycarbonate coating material which is applied to some optical lenses, if specifically
4 requested by customers. (A list of retail stores utilizing the coating material is attached as
5 Exhibit A.) This coating is applied to an optical lens in a machine that is specifically
6 designed for such application, where it is then cured onto the lens by ultraviolet (UV) light.
7 A small amount of overspray results from the application process and this excess material
8 (several ounces) is collected in an enclosed, labeled container, within the machine.

9 7. Based on the potential ignitability and potential toxicity of the coating, the
10 coating waste generated by Defendant may exhibit characteristics of hazardous waste
11 pursuant to Title 22 of the California Codified Regulations, Sections 66261.21 and
12 66261.24.

13 8. Defendant treats the liquid coating waste daily in its stores. Defendant's
14 treatment process usually involves curing several ounces of the coating waste by
15 polymerizing it into a solid through the application of UV light in a specially designed
16 machine. Previously, Defendant's procedure for disposing of the coating waste was to
17 cure it each day into a solid form under the UV light, then it was placed in the trash for
18 disposal along with all other waste generated in the store that day.

19 9. Defendant's treatment activity is currently conducted pursuant to the
20 specified waste stream treatment exemption found in Section 25201.5(c) of the California
21 Health and Safety Code.

22 10. To comply with Section 25201.5(c) of the Health and Safety Code,
23 Defendant is required to provide notification of its treatment activities to the California
24 Department of Toxic Substance Control and to the appropriate Certified Unified Program
25 Agency. Plaintiff asserts that Defendant failed to timely provide such notifications to all
26 required agencies and to manage this waste material in accordance with Chapter 6.5,
27 Division 20 of the Health and Safety Code.

28 11. By virtue of the activities described in paragraphs 6-10 hereof, Defendant is

1 subject to the requirements of Chapter 6.5, Division 20 of the California Health and Safety
2 Code and regulations promulgated thereunder.

3 12. Whenever in this Complaint reference is made to any act of Defendant, such
4 allegation shall be deemed to mean that Defendant and its officers, agents, employees, or
5 representatives, did or authorized acts while actively engaged in the management,
6 direction, or control of the affairs of the Defendant, and while acting within the course and
7 scope of their duties.

8 FIRST CAUSE OF ACTION

9 VIOLATION OF HEALTH AND SAFETY CODE DIVISION 20, CHAPTER 6.5

10 13. Paragraphs 1 through 12 above are incorporated herein by reference.
11 Plaintiff is informed and believes and based on such information and belief alleges that
12 beginning at an exact date that is unknown to Plaintiff, but within five (5) years prior to the
13 filing of this Complaint, Defendant failed to fully comply with the requirements of Chapter
14 6.5, Division 20 of the California Health and Safety Code arising from the practices
15 formerly utilized by Defendant in treating and disposing of the coating waste generated in
16 Defendant's retail stores, identified in Exhibit A as described herein.

17 SECOND CAUSE OF ACTION

18 VIOLATION OF BUSINESS AND PROFESSIONS

19 CODE SECTIONS 17200 – 17208

20 UNLAWFUL AND/OR UNFAIR COMPETITION

21 14. Paragraphs 1 through 13 above are incorporated herein by reference.
22 Plaintiff is informed and believes and based on such information and belief alleges that
23 beginning at an exact date that is unknown to Plaintiff, but within four (4) years prior to
24 the filing of this Complaint, Defendant failed to fully comply with the requirements of
25 Chapter 6.5, Division 20 of the California Health and Safety Code arising from the
26 practices formerly utilized by Defendant in treating and disposing of coating waste
27 generated in Defendant's retail stores.

28 15. Defendant's failure to comply with the applicable requirements of the

1 California Health and Safety Code constitutes unfair and/or unlawful business practices,
2 within the meaning of "unfair competition" under Section 17200 of the California Business
3 and Professions Code.

4 16. By virtue of Defendant's alleged Health and Safety Code violations,
5 Defendant has engaged in unfair competition prohibited by California Business and
6 Professions Code §17200 - §17208.

7 PRAYER

8 WHEREFORE, PLAINTIFF PRAYS FOR THE FOLLOWING RELIEF:

9 17. Defendant be immediately and permanently restrained and enjoined from
10 engaging in or performing, directly or indirectly, any act that fails to comply with the
11 requirements of Chapter 6.5, Division 20 of the California Health and Safety Code
12 associated with Defendant's treatment and disposal of coating waste generated in
13 Defendant's retail stores.

14 18. For violation of the Second Cause of Action, that Defendant be assessed a
15 civil penalty not to exceed TWO THOUSAND FIVE HUNDRED DOLLARS (\$2,500.00)
16 for each act of unfair competition, in an amount according to proof, pursuant to Business
17 and Professions Code §17206.

18 19. Plaintiff recover its costs and agencies costs, in connection with its
19 investigation of Defendant's unlawful and unfair acts complained of herein.

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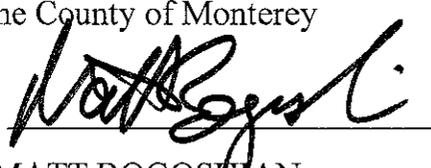
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1 20. Plaintiff have such other and further relief as the nature of the case may
2 require and that the Court deems proper to fully dissipate the effects of the unlawful and
3 unfair acts complained of herein.

4 RESPECTFULLY SUBMITTED:

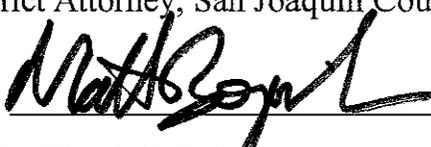
5 Dated: ~~September~~ ^{October 20} __, 2005

6 DEAN D. FLIPPO, District Attorney
7 Of the County of Monterey

8 By: 

9 MATT BOGOSHIAN
10 Deputy District Attorney

11 JAMES P. WILLETT
12 District Attorney, San Joaquin County

13 By: 

14 for DAVID J. IREY
15 Supervising Deputy District Attorney

16 STEVE COOLEY
17 District Attorney of Los Angeles County

18 By: 

19 for STANLEY P. WILLIAMS
20 Assistant Head Deputy District Attorney

21 MICHAEL A. RAMOS
22 District Attorney of San Bernardino
23 County

24 By: 

25 for GLENN YABUNO
26 Supervising Deputy District Attorney

EXHIBIT A
COVERED FACILITIES

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Covered Facilities - Exhibit A to Complaint

Store No	Mall	Address	City	State	Zip code	County
42	Arden Fair Shp Ctr	1689 Arden Way #1344	Sacramento	CA	95815	Sacramento
59	Southland Mall	500 Southland Mall	Hayward	CA	94545	Alameda
66	Eastridge Mall	152 Eastridge Mall	San Jose	CA	95122	Santa Clara
74	Wlshire Boulevard	321 Wlshire Blvd	Santa Monica	CA	90401	Los Angeles
77	Quail Pointe	5345 Sunrise Blvd	Fair Oaks	CA	95628	Sacramento
83	East Imperial Highway	1040 E Imperial Hwy	Brea	CA	92821	Orange
84	West Lapalma	2656 W Lapalma	Anaheim	CA	92801	Orange
85	South Pacific Coast	1760 S Pacific Coast	Redondo Beach	CA	90277	Los Angeles
86	Whittier Boulevard	16152 Whittier Blvd	Whittier	CA	90603	Los Angeles
87	Tampa Avenue	9027 Tampa Avenue	Northridge	CA	91324	Los Angeles
88	West Verdugo Avenue	1601 W Verdugo Ave	Burbank	CA	91506	Los Angeles
91	West Huntington	616 West Huntington	Monrovia	CA	91016	Los Angeles
98	Stoneridge Shp Ctr	1104 Stoneridge Mall Rd	Pleasanton	CA	94588	Alameda
101	Plaza At West Covina	120 South California Avenue	West Covina	CA	91790	Los Angeles
102	Thousand Oaks	518 N Moorpark Rd	Thousand Oaks	CA	91360	Ventura
103	Hilltop Mall	1212 Hilltop Mall Road Ste D-112	Richmond	CA	94806	Contra Costa
108	Van Nuys Boulevard	4518 Van Nuys Blvd	Sherman Oaks	CA	91403	Los Angeles
115	280 Metro Center	53 Colma Blvd #F2	Colma	CA	94014	San Mateo
120	Topanga Plaza	6600 Topanga Canyon Blvd	Canoga Park	CA	91303	Los Angeles
135	Weberstown Shopping Ctr	4960 Pacific Avenue	Stockton	CA	95207	San Joaquin
136	Corte Madera Town Center	425 Corte Madera Town Center	Corte Madera	CA	94925	Marin
137	Plaza Bonita	3030 Plaza Bonita Road	National City	CA	91950	San Diego
155	Bristol Place	3370 South Bristol Avenue	Santa Ana	CA	92704	Orange
157	Market Street	685 Market Street	San Francisco	CA	94105	San Francisco
177	Del Amo Fashion Center Unit #30	3525 Carson St	Torrance	CA	90503	Los Angeles
178	160 Menlo Station	700 El Camino Real	Menlo Park	CA	94025	San Mateo
194	Lakewood Center Mall	4651 Silva Street	Lakewood	CA	90712	Los Angeles

Covered Facilities - Exhibit A to Complaint

195	New Park Mall	1115 New Park Mall	Newark	CA	94560	Alameda
206	Valley Fair Mall	2855 Stevens Creek Blvd #2271	Santa Clara	CA	95050	Santa Clara
209	Inland Shopping Center	330 Inland Shopping Ctr	San Bernardino	CA	92408	San Bernardino
215	Santa Rosa Plaza	2033 Santa Rosa Plaza	Santa Rosa	CA	95401	Sonoma
218	Fox Hills Mall	192 Fox Hills Mall	Culver City	CA	90230	Los Angeles
238	Monte Vista	9337 Monte Vista Avenue	Montclair	CA	91763	San Bernardino
239	North Blackstone Avenue	4983 No Blackstone Ave	Fresno	CA	93726	Fresno
245	North County Plaza	1822 Marron Road	Carlsbad	CA	92008	San Diego
254	Del Monte Shopping Center	1420 Del Monte Shpg Ctr	Monterey	CA	93940	Monterey
268	Mission Valley Center	1640 Camino Del Rio North	San Diego	CA	92108	San Diego
283	Westminster Mall	2056 Westminster Mall	Westminster	CA	92683	Orange
301	Stonestown Galleria	3251 20Th Avenue Space 219	San Francisco	CA	94132	San Francisco
357	Esccondido Promenade	1284C Auto Park Way	Esccondido	CA	92029	San Diego
378	Pacific View Mall	3301-1006 East Main Street	Ventura	CA	93003	Ventura
410	Parkway Plaza	539 Parkway Plaza	El Cajon	CA	92020	San Diego
425	The Promenade In Temecula	40820 Winchester Rd/Ste 1360	Temecula	CA	92591	Riverside
436	Best Plaza	3500 Sisk Road Ste E	Modesto	CA	95356	Stanislaus
437	Pine & Battery	100 Battery Street	San Francisco	CA	94111	San Francisco
458	Stonewood Mall	455 Stonewood Crt	Downey	CA	90241	Los Angeles
462	Valley Central Shopping Center	44414 Valley Central Way	Lancaster	CA	93536	Los Angeles
467	Brea Mall	2063 Brea Mall	Brea	CA	92821	Orange
489	Powell Street Plaza	5707 Christie Avenue	Emeryville	CA	94608	Alameda
491	Santa Maria Town Center	363 Town Center East Sp G-73	Santa Maria	CA	93454	Santa Barbara
492	Santa Anita Fashion Park	400 South Baldwin	Arcadia	CA	91007	Los Angeles
493	Lacumbre Plaza	3855 State Street	Santa Barbara	CA	93105	Santa Barbara
501	Fashion Square	14006 Riverside Drive #274	Sherman Oaks	CA	91423	Los Angeles
504	Almaden Square	1090 Blossom Hill Road	San Jose	CA	95123	Santa Clara
511	Northridge Mall	670 Northridge Mall	Salinas	CA	93906	Monterey

Covered Facilities - Exhibit A to Complaint

514	North County Fair	200 E Via Rancho Parkway #287	Escondido	CA	92025	San Diego
532	The Market Place II	13662A Jamboree Road	Irvine	CA	92620	Orange
560	Mt Shasta Mall	900 Dana Drive	Redding	CA	96003	Shasta
580	Westside Pavilion	10800 W Pico Blvd Space 199	Los Angeles	CA	90064	Los Angeles
610	Valencia Town Center	24201 Valencia Blvd	Valencia	CA	91355	Los Angeles
611	Galleria At Tyler	2051 Galleria At Tyler	Riverside	CA	92503	Riverside
622	Montclair Plaza	2148 Montclair Plaza Lane	Montclair	CA	91763	San Bernardino
727	Downtown Plaza Shopping Center	515 L Street #A1024	Sacramento	CA	95814	Sacramento
730	Los Cerritos Center	457 Los Cerritos Center	Cerritos	CA	90703	Los Angeles
741	Main Place Mall	2800 North Main Street #104	Santa Ana	CA	92705	Orange
790	Northridge Fashion Center #62	9301 Tampa Avenue	Northridge	CA	91324	Los Angeles
793	The Mall At Northgate	3840 Northgate Drive	San Rafael	CA	94903	Marin
799	Montebello Town Center	1716 Montebello Town Center	Montebello	CA	90640	Los Angeles
819	Galleria @ South Bay	1815 Hawthorne Boulevard #236	Redondo Beach	CA	90278	Los Angeles
870	Fashion Valley Center	7007 Friars Road #720	San Diego	CA	92108	San Diego
874	Santa Monica Place	195 Santa Monica Place #195	Santa Monica	CA	90401	Los Angeles
885	Palm Desert Town Center	72840 Highway 111 #F201	Palm Desert	CA	92260	Riverside
895	Ontario Mills	One Mills Circle #516	Ontario	CA	91764	San Bernardino
1038	Hemet Valley Center	3601 West Florida Ave	Hemet	CA	92545	Riverside
1046	Moreno Valley Mall At Towngate	22500 Town Circle Suite 2108	Moreno Valley	CA	92553	Riverside
1123	University Towne Centre	4353 La Jolla Village Dr Ste H-20	San Diego	CA	92122-1212	San Diego
1186	Glendale Galleria	1101 Glendale Galleria	Glendale	CA	91210	Los Angeles
1190	Galleria At Roseville	1151 Galleria Blvd Suite 175	Roseville	CA	95678	Placer
1373	Antelope Valley	1233 West Avenue P Suite #737	Palmdale	CA	93551	Los Angeles