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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES

DEC 13 2012

John A. ...
BY **Original signed by**
Cristina Grijalva Deputy

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California, ex rel. Kamala D. Harris,
8 *Attorney General, and People of the State of*
California, ex rel. Debbie Raphael, Director,
9 *Department of Toxic Substances Control*

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 COUNTY OF LOS ANGELES, CENTRAL DISTRICT

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DEC 13 2012
FILING WINDOW

13 **PEOPLE OF THE STATE OF CALIFORNIA,**
14 **ex rel. KAMALA D. HARRIS, ATTORNEY**
15 **GENERAL; and PEOPLE OF THE STATE**
16 **OF CALIFORNIA, ex rel. DEBBIE**
RAPHAEL, DIRECTOR, DEPARTMENT OF
TOXIC SUBSTANCES CONTROL
17 Plaintiffs,
18 v.
19 **JOIA TRADING, INC., et al.,**
20 Defendants,

Case No. BC488508

**FIRST AMENDED COMPLAINT
FOR CIVIL PENALTY AND
INJUNCTIVE RELIEF**

21 Plaintiffs, the People of the State of California ("People"), by and through Kamala D.
22 Harris, Attorney General ("Attorney General"), and by and through Debbie Raphael, Director,
23 Department of Toxic Substances Control ("the Department"), allege as follows:

24 1. This complaint seeks to remedy the failure of certain companies to comply with
25 California's strict limits on the amount of lead in jewelry manufactured, shipped, sold, or offered
26 for sale or promotional purposes in the State. It also seeks to remedy false and misleading
27 statements by companies about the jewelry, which was labeled as being lead-free or otherwise
28 compliant with lead restrictions to gain advantage from public concern about leaded jewelry, even

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1 though the jewelry contained excessive levels of lead, often many times above the statutory
2 limits.

3 2. These unlawful practices can result in adults and children alike being exposed to a
4 toxic metal with potentially severe acute and chronic health effects including headaches, nausea,
5 vomiting, abdominal pain, loss of appetite, constipation, muscle soreness, anemia, neurological
6 impairments such as stumbling or loss of concentration, seizures, encephalopathy, coma, and, at
7 high enough levels, death.

8 3. Young children are especially susceptible to adverse health effects from lead
9 exposure because their bodies and brains are still developing. Even mild episodes of lead
10 poisoning can cause persistent neurological impairments resulting in behavioral problems and
11 learning disabilities, among other acute and chronic health effects. Leaded jewelry poses a
12 particular danger because children often place jewelry in their mouths, which can result in higher
13 lead absorption and serious health effects, especially if the jewelry is accidentally swallowed.

14 4. Despite widespread publicity and concern about lead in jewelry, and the availability
15 of equipment allowing lay persons in the jewelry industry to screen products for lead, the
16 defendants named below continue to violate the law in the pursuit of profit and leave the public to
17 suffer the consequences.

18 **PARTIES**

19 5. The Department of Toxic Substances Control is a public agency of the State of
20 California organized and existing under and pursuant to Health and Safety Code sections 58000 *et*
21 *seq.* Debbie Raphael is the Director of the Department. The Department is the state agency
22 responsible for the administration of the Hazardous Waste Control Law, Chapter 6.5 of Division
23 20 of the Health and Safety Code sections 25100 *et seq.* ("HWCL").

24 6. The Attorney General is the chief law officer of the State of California, whose duties
25 include seeing that the laws are uniformly and adequately enforced. (Cal. Const., art. V, § 13.)
26 Kamala D. Harris is the California Attorney General. Business and Professions Code sections
27 17204 and 17535 provide that actions to enforce sections 17500, 17508 and 17200 may be
28 brought by the Attorney General. The Attorney General is authorized to commence an action.

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1 under the HWCL in the name of the People at the request of the Department. (Health & Saf.
2 Code, § 25182.) The Department has asked the Attorney General to initiate this action for
3 violations of the Metal Containing Jewelry law.

4 7. Defendant ADORA INTERNATIONAL, INC., dba ADORE INTERNATIONAL,
5 INC. ("Adora International") is a corporation that dissolved in or about 2011. Adora
6 International was sued in the original Complaint as DOE 26, and was identified in an amendment
7 to the Complaint filed on July 27, 2012. Adora International was a business entity that
8 manufactured, shipped, sold, offered for sale, or offered for promotional purposes jewelry for
9 retail sale or promotional purposes in California. Whenever reference is made in this complaint
10 to any act or transaction of defendant Adora International, that allegation shall be deemed to
11 mean that Adora International did or authorized the acts alleged in this complaint through its
12 principals, officers, directors, employees, members, agents or representatives while they were
13 acting within the actual or ostensible scope of their authority. This action is brought against
14 Adora International and, by reference, each of its shareholders to the extent Adora International's
15 assets were distributed to that shareholder, pursuant to California Corporations Code section 2011.

16 8. Defendant ANA ACCESSORIES CORPORATION, dba ANA TRADING
17 COMPANY ("Ana Accessories") is a business entity that manufactures, ships, sells, offers for
18 sale, or offers for promotional purposes jewelry for retail sale or promotional purposes in
19 California. Whenever reference is made in this complaint to any act or transaction of defendant
20 Ana Accessories, that allegation shall be deemed to mean that Ana Accessories did or authorized
21 the acts alleged in this complaint through its principals, officers, directors, employees, members,
22 agents or representatives while they were acting within the actual or ostensible scope of their
23 authority.

24 9. Defendant AF DESIGNS CO., INC., dba ANN KIM FASHION ACCESSORY
25 ("Ann Kim") is a business entity that manufactures, ships, sells, offers for sale, or offers for
26 promotional purposes jewelry for retail sale or promotional purposes in California. Whenever
27 reference is made in this complaint to any act or transaction of defendant Ann Kim, that
28 allegation shall be deemed to mean that Ann Kim did or authorized the acts alleged in this

1 complaint through its principals, officers, directors, employees, members, agents or
2 representatives while they were acting within the actual or ostensible scope of their authority.

3 10. Defendant ASIANA TRADING, INC. ("Asiana Trading") is a business entity that
4 manufactures, ships, sells, offers for sale, or offers for promotional purposes jewelry for retail
5 sale or promotional purposes in California. Whenever reference is made in this complaint to any
6 act or transaction of defendant Asiana Trading, that allegation shall be deemed to mean that
7 Asiana Trading did or authorized the acts alleged in this complaint through its principals, officers,
8 directors, employees, members, agents or representatives while they were acting within the actual
9 or ostensible scope of their authority.

10 11. Defendant DA BIG, INC. ("Da Big") is a business entity that manufactures, ships,
11 sells, offers for sale, or offers for promotional purposes jewelry for retail sale or promotional
12 purposes in California. Whenever reference is made in this complaint to any act or transaction of
13 defendant Da Big, that allegation shall be deemed to mean that Da Big did or authorized the acts
14 alleged in this complaint through its principals, officers, directors, employees, members, agents or
15 representatives while they were acting within the actual or ostensible scope of their authority.

16 12. Defendant EASTERN NATIONWIDE SUPPLY, INC. ("ENS") is a business entity
17 that manufactures, ships, sells, offers for sale, or offers for promotional purposes jewelry for retail
18 sale or promotional purposes in California. Whenever reference is made in this complaint to any
19 act or transaction of defendant ENS, that allegation shall be deemed to mean that ENS did or
20 authorized the acts alleged in this complaint through its principals, officers, directors, employees,
21 members, agents or representatives while they were acting within the actual or ostensible scope of
22 their authority.

23 13. Defendant EFM GROUP, INC. ("EFM") is a business entity that manufactures,
24 ships, sells, offers for sale, or offers for promotional purposes jewelry for retail sale or
25 promotional purposes in California. Whenever reference is made in this complaint to any act or
26 transaction of defendant EFM, that allegation shall be deemed to mean that EFM did or
27 authorized the acts alleged in this complaint through its principals, officers, directors, employees,
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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA IN AND FOR THE COUNTY OF SAN DIEGO

1 members, agents or representatives while they were acting within the actual or ostensible scope of
2 their authority.

3 14. Defendant JOIA TRADING, INC. ("Joia Trading") is a business entity that
4 manufactures, ships, sells, offers for sale, or offers for promotional purposes jewelry for retail
5 sale or promotional purposes in California. Whenever reference is made in this complaint to any
6 act or transaction of defendant Joia Trading, that allegation shall be deemed to mean that Joia
7 Trading did or authorized the acts alleged in this complaint through its principals, officers,
8 directors, employees, members, agents or representatives while they were acting within the actual
9 or ostensible scope of their authority.

10 15. Defendant JOVE IMPORTS, INC. ("Jove Imports") is a business entity that
11 manufactures, ships, sells, offers for sale, or offers for promotional purposes jewelry for retail
12 sale or promotional purposes in California. Whenever reference is made in this complaint to any
13 act or transaction of defendant Jove Imports, that allegation shall be deemed to mean that Jove
14 Imports did or authorized the acts alleged in this complaint through its principals, officers,
15 directors, employees, members, agents or representatives while they were acting within the actual
16 or ostensible scope of their authority.

17 16. Defendant LUXY ACCESSORIES, INC. ("Luxy Accessories") is a business entity
18 that manufactures, ships, sells, offers for sale, or offers for promotional purposes jewelry for retail
19 sale or promotional purposes in California. Whenever reference is made in this complaint to any
20 act or transaction of defendant Luxy Accessories, that allegation shall be deemed to mean that
21 Luxy Accessories did or authorized the acts alleged in this complaint through its principals,
22 officers, directors, employees, members, agents or representatives while they were acting within
23 the actual or ostensible scope of their authority.

24 17. Defendants DU-BIN KIM and HYUN HEE KIM, dba MIJU INTERNATIONAL
25 and MIJU International ("Miju International") are individuals that manufacture, ship, sell, offer
26 for sale, or offer for promotional purposes jewelry for retail sale or promotional purposes in
27 California. Whenever reference is made in this complaint to any act or transaction of defendant
28 Miju International, that allegation shall be deemed to mean that Miju International did or

1 authorized the acts alleged in this complaint through its owners, principals, employees, agents or
2 representatives while they were acting within the actual or ostensible scope of their authority.

3 18. Defendant YOUNG CHUL YOON, dba NEW RISING SUN, INC. and NEW
4 RISING SUN ("New Rising Sun") is an individual that manufactures, ships, sells, offers for sale,
5 or offers for promotional purposes jewelry for retail sale or promotional purposes in California.
6 Whenever reference is made in this complaint to any act or transaction of defendant New Rising
7 Sun, that allegation shall be deemed to mean that New Rising Sun did or authorized the acts
8 alleged in this complaint through its owners, principals, employees, agents or representatives
9 while they were acting within the actual or ostensible scope of their authority.

10 19. Defendant SAM'S ACCESSORIES, INC. ("Sam's Accessories") is a business entity
11 that manufactures, ships, sells, offers for sale, or offers for promotional purposes jewelry for retail
12 sale or promotional purposes in California. Whenever reference is made in this complaint to any
13 act or transaction of defendant Sam's Accessories, that allegation shall be deemed to mean that
14 Sam's Accessories did or authorized the acts alleged in this complaint through its principals,
15 officers, directors, employees, members, agents or representatives while they were acting within
16 the actual or ostensible scope of their authority.

17 20. Defendant ROY & JOHN IMPORTS, INC., dba RJ IMPORTS ("RJ Imports") is a
18 business entity that manufactures, ships, sells, offers for sale, or offers for promotional purposes
19 jewelry for retail sale or promotional purposes in California. Whenever reference is made in this
20 complaint to any act or transaction of defendant RJ Imports, that allegation shall be deemed to
21 mean that RJ Imports did or authorized the acts alleged in this complaint through its principals,
22 officers, directors, employees, members, agents or representatives while they were acting within
23 the actual or ostensible scope of their authority.

24 21. Defendant S.G. IMPORTS, INC. ("SG Imports") is a business entity that
25 manufactures, ships, sells, offers for sale, or offers for promotional purposes jewelry for retail
26 sale or promotional purposes in California. Whenever reference is made in this complaint to any
27 act or transaction of defendant SG Imports, that allegation shall be deemed to mean that SG
28 Imports did or authorized the acts alleged in this complaint through its principals, officers,

1 directors, employees, members, agents or representatives while they were acting within the actual
2 or ostensible scope of their authority.

3 22. The true names and capacities of the defendants sued herein as DOES 1 through 50
4 are unknown to Plaintiff, who therefore sues them by such fictitious names. Plaintiff will amend
5 this complaint to allege the true names and capacities of these defendants when they have been
6 determined. Each of the fictitiously named defendants is responsible in some manner for the
7 conduct alleged herein.

8 23. Whenever reference is made in this complaint to "Defendants," such reference,
9 unless otherwise specified, includes the defendant named in paragraphs 7 through 21 and Does 1
10 through 50. References made to one or more specifically-identified defendants do not include
11 defendants not identified within the same reference.

12 JURISDICTION AND VENUE

13 24. This Court has jurisdiction to hear this matter, and the Court has jurisdiction over
14 each defendant named above. Venue is proper in this Court because the principal office of at
15 least some of the defendants is located in the County of Los Angeles and because some of the
16 violations of law alleged herein have been and are being carried out within the County of Los
17 Angeles.

18 STATUTORY BACKGROUND

19 A. Metal Containing Jewelry Law

20 25. California Health and Safety Code section 25214.2, subdivision (a), provides that "a
21 person shall not manufacture, ship, sell, offer for sale, or offer for promotional purposes jewelry
22 for retail sale or promotional purposes in the state, unless the jewelry is made entirely from a
23 class 1, class 2, or class 3 material, or any combination of those materials."

24 26. California Health and Safety Code section 25214.1, subdivision (h), defines
25 "jewelry" as any of the following ornaments worn by a person: an anklet; arm cuff; bracelet;
26 brooch; chain; crown; cuff link; hair accessory; earring; necklace; pin; ring; tie clip; body
27 piercing jewelry; jewelry placed in the mouth for display or ornament; any bead, chain, link,
28 pendant, or other part of one of the above-named ornaments. "Jewelry" also includes a charm,

1 bead, chain, link, pendant, or other attachment to shoes or clothing that can be removed and may
2 be used as a part of any of the above-named ornaments. (Health & Saf. Code, § 25214.1, subd.
3 (h).) In addition, a watch in which a timepiece is a component of an above-named ornament, is
4 also defined as jewelry, excluding the timepiece itself if the timepiece can be removed from the
5 ornament. (*Ibid.*)

6 27. "Class 1 material" includes any of the following materials: stainless or surgical steel;
7 karat gold; sterling silver; platinum, palladium, iridium, ruthenium, rhodium, or osmium; natural
8 or cultured pearls; glass, ceramic, or crystal decorative components, including cat's eye, cubic
9 zirconia, cubic zirconium or CZ, rhinestones, and cloisonne; a gemstone that is cut or polished for
10 ornamental purposes, except for aragonite, bayldonite, boleite, cerussite, crocoite, ekanite, linarite,
11 mimetite, phosgenite, samarskite, vanadinite, and wulfenite; elastic, fabric, ribbon, rope, or string,
12 unless it contains intentionally added lead and is listed as a class 2 material; all natural decorative
13 material including amber, bone, coral, feathers, fur, horn, leather, shell, or wood, that is in its
14 natural state and is not treated in a way that adds lead; and adhesive. (Health & Saf.
15 Code, § 25214.1, subd. (d).)

16 28. "Class 2 material" includes any of the following materials: electroplated metal that,
17 on and before August 30, 2009, was made of a metal alloy with less than 10 percent lead by
18 weight that is electroplated with suitable under and finish coats; electroplated metal that, on and
19 after August 31, 2009, is made of a metal alloy with less than 6 percent lead by weight that is
20 electroplated with suitable under and finish coats; unplated metal with less than 1.5 percent lead
21 that is not otherwise listed as a class 1 material; a dye or surface coating containing less than 0.06
22 percent (600 parts per million ("ppm")) lead by weight. "Class 2 material" also includes plastic
23 or rubber, including acrylic, polystyrene, plastic beads and stones, and polyvinyl chloride
24 ("PVC") that meets the following standards: (A) On and before August 30, 2009, containing less
25 than 600 ppm lead by weight; or (B) On and after August 31, 2009, containing less than 200 ppm
26 lead by weight. (Health & Saf. Code, § 25214.1, subd. (e).)
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1 29. "Class 3 material" means any portion of jewelry that is not a class 1 or class 2
2 material *and* contains less than 600 ppm lead by weight. (Health & Saf. Code, § 5214.1, subd.
3 (f).)

4 30. For children ages six years and under, the statute provides even stricter lead
5 standards. (Health & Saf. Code, § 25214.2, subd. (b); *see id.*, § 25214.1, subsd. (b), (c).)
6 Children's metallic jewelry and any printing ink or ceramic glaze must contain less than 600 ppm
7 of lead by weight. (Health & Saf. Code, § 25214.2, subsd. (b)(3), (b)(5).) Small glass or crystal
8 decorative jewelry and any "Class 3 material" that meets the statute's definition of "children's
9 jewelry" are limited to less than 200 ppm of lead by weight and cannot contain any intentionally
10 added lead. (*Id.*, § 25214.2, subsd. (b)(4), (b)(6).)

11 31. The Legislature broadly defined "Children's jewelry" as "jewelry that is made for,
12 marketed for use by, or marketed to children," including, but not limited to jewelry: whose
13 packaging, display, or advertising represents that it is appropriate for use by children; "[s]old in
14 conjunction with, attached to, or packaged together with other products that are packaged,
15 displayed, or advertised as appropriate for use by children;" "[s]ized for children and not intended
16 for use by adults;" sold in a vending machine; or sold in a retail store, catalog, or Internet site that
17 either "exclusively offers for sale products that are packaged, displayed, or advertised as
18 appropriate for use by children," or that dedicates a discrete portion of space to such products.
19 (Health & Saf. Code, § 25214.1, subsd. (c)(1)-(4).)

20 32. The statute places an additional burden on manufacturers and suppliers of jewelry
21 that is "sold, offered for sale, or offered for promotional purposes" to provide technical
22 documentation and certification of compliance with the Metal Containing Jewelry law. (Health &
23 Saf. Code, § 25214.3.) California Health and Safety Code section 25214.3, subdivision (b),
24 provides that the certification "shall attest that the jewelry does not contain a level of lead . . . that
25 prohibits the jewelry from being sold or offered for sale pursuant to [the Metal Containing
26 Jewelry law]." A manufacturer or supplier must either: "[p]rovide the certification . . . to a
27 person who sells or offers for sale that manufacturer's or supplier's jewelry" or "display the
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1 certification . . . prominently on the shipping container or on the packaging of jewelry.” (*Id.*, §
2 25214.3, subds. (c)(1)–(2).)

3 33. A person who violates the Metal Containing Jewelry law “shall be liable for a[] . . .
4 civil penalty not to exceed [\$2,500] per day for each violation.” (Health & Saf. Code, § 25214.3,
5 subd. (b)(1).) The penalty may be assessed or recovered in a civil action brought in any court of
6 competent jurisdiction. (*Ibid.*)

7 34. The statute authorizes the Department to inspect a factory, warehouse, or
8 establishment where jewelry is manufactured, packed, held, or sold. (Health & Saf.
9 Code, § 25214.3, subd. (d).) Upon obtaining consent or an inspection warrant, an authorized
10 representative of the Department may inspect the facility and its paperwork, and secure samples
11 of jewelry for its investigation. (*Ibid.*)

12 35. Prior to October 2011, the Metal Containing Jewelry law specified that for an entity
13 that is a signatory to the amended consent judgment in the consolidated action entitled *People v.*
14 *Burlington Coat Factory Warehouse Corporation* (Alameda Superior Court Lead Case No.
15 RG04-162075), or a signatory to a consent judgment that contains identical or substantially
16 identical terms as provided in Sections 2, 3, and 4 of the *Burlington Coat Factory Consent*
17 *Judgment* (“*Burlington Consent Judgment*”), an action to enforce the Metal Containing Jewelry
18 law against the party is subject to Section 4 of the *Burlington Consent Judgment*. (Former Health
19 & Saf. Code, § 25214.3, subd. (d). Section 4 of the *Burlington Consent Judgment* specifies a
20 procedure to enforce the judgment, whereby a party that receives a Notice of Violation and elects
21 not to contest the notice must remove the noncompliant products from sale in California and
22 instruct its customers that offer the product for sale in California to do the same. The Legislature
23 repealed this provision in 2011. (Sen. Bill No. 646 (2011-2012 Reg. Sess.) Oct. 4, 2011.)

24 **B. Untrue or Misleading Advertising Claims**

25 36. California Business and Professions Code section 17500 provides that it is unlawful
26 to “make or disseminate or cause to be made or disseminated before the public in this state . . .
27 any statement . . . which is untrue or misleading, and which is known, or which by the exercise of
28 reasonable care should be known, to be untrue or misleading,” for the purpose of inducing the

1 public to an obligation relating to goods or services. Additionally, Business and Professions
2 Code section 17508, subdivision (a), makes it unlawful to make any false or misleading
3 advertising claim, including claims that “(1) purport to be based on factual, objective, or clinical
4 evidence, (2) compare the product’s effectiveness or safety to that of other brands or products, or
5 (3) purport to be based on any fact.”

6 37. In an action by the Attorney General, persons violating these provisions are subject
7 to injunctive relief and to a civil penalty not to exceed \$2,500 for each violation of section 17500
8 and 17508, except that if the same violation is a violation of both sections 17500 and 17508, a
9 civil penalty is assessed for that violation once. (Bus. & Prof. Code, §§ 17508, subd. (g), 17535,
10 and 17536, subd. (a).) Otherwise, “the remedies or penalties are cumulative to each other and to
11 the remedies or penalties available under all other laws of this state.” (*Id.*, § 17534.5.)

12 **C. The Unfair Competition Act**

13 38. California Business and Professions Code section 17200 provides that “unfair
14 competition shall mean and include unlawful, unfair or fraudulent business practice.” Unlawful
15 acts under the statute include any act that is unlawful that is conducted as part of business activity,
16 and therefore include violations of state or federal laws and regulations.

17 39. Section 17203 of the Business and Professions Code provides that “(a)ny person
18 performing or proposing to perform an act of unfair competition within this state may be enjoined
19 in any court of competent jurisdiction.”

20 40. Business and Professions Code section 17206, subdivision (a), provides that any
21 person violating section 17200 “shall be liable for a civil penalty not to exceed two thousand five
22 hundred dollars (\$2,500) for each violation, which shall be assessed and recovered in a civil
23 action brought in the name of the people of the State of California by the Attorney General”
24 Under section 17205, these penalties are “cumulative to each other and to the remedies or
25 penalties available under all other laws of this state.”

26 **GENERAL ALLEGATIONS**

27 41. Defendants are entities that manufacture, ship, sell, offer for sale, or offer for
28 promotional purposes jewelry for retail sale or promotional purposes in California. Often the

1 jewelry contains lead that far exceeds the legal limits placed on lead in jewelry sold or offered for
2 sale or promotional purposes in the State. Despite widespread publicity and concern about this
3 problem, and in some cases repeated warnings from the Department, during the last three years
4 the Department has traced hundreds of styles of jewelry that violate the lead standards to
5 Defendants. Some of the jewelry is intended for young children, and almost all of it is falsely
6 labeled as being lead-free or in compliance with lead standards, even when the jewelry contains
7 more than 1,000 times the allowable lead.

8 42. Since November 2009, the Department has conducted at least three inspections at
9 Joia Trading, in the Los Angeles jewelry district, for the purpose of determining compliance with
10 the Metal Containing Jewelry law. During inspections, authorized representatives of the
11 Department screened jewelry being sold or offered for sale by Joia Trading for lead with a
12 portable X-Ray Fluorescence ("XRF") device. When the XRF device detected high lead levels,
13 or when the Department had other reasons to suspect that a jewelry style contained excess lead,
14 inspectors collected jewelry samples for laboratory testing using methods prescribed by the Metal
15 Containing Jewelry law.

16 43. During each of the inspections at Joia Trading, the Department identified dozens of
17 styles of jewelry that subsequent laboratory testing confirmed contained lead at levels in excess of
18 the limits set by the Metal Containing Jewelry law. In November 2009, for instance, the
19 Department identified children's jewelry with more than 1,000 times the allowable lead levels. A
20 year later, during an inspection in December 2010, the Department identified more than 175
21 styles of jewelry with excess lead, some with nearly 100 percent lead in the metallic clasps.

22 44. Many of the jewelry styles in which the Department identified excess lead were
23 made for, marketed for use by, or marketed to children ages six years and younger.

24 45. Often times the jewelry was packaged with labels stating or implying that the
25 jewelry was lead-free or that it complied with applicable lead standards, when in fact the jewelry
26 contained excessive levels of lead. At Joia, the Department discovered non-compliant leaded
27 jewelry with false and misleading labels such as "Lead Free," "Lead Free Nickel Free," and "This
28 product is in compliance with the latest standards of permissible level of lead."

1 46. On or about December 20, 2010, and February 4, 2011, the Attorney General sent
2 Notices of Violation to Joia Trading, a party to the *Burlington* Consent Judgment. Combined, the
3 notices identified 205 styles of jewelry that violated the Metal Containing Jewelry law. In both
4 instances, Joia Trading responded that it did not contest the Notices of Violation.

5 47. Joia Trading was not the only violator the Department discovered in its investigation.
6 The Department also identified the companies that supplied the non-compliant leaded jewelry to
7 Joia Trading, including all of the remaining Defendants.

8 48. In November 2009, and November 2010, the Department conducted inspections at
9 the facilities of two of the suppliers that sold non-compliant jewelry to Joia Trading – defendants
10 Ann Kim and Luxy Accessories.

11 49. Nearly half of the approximately 80 styles of jewelry the Department screened and
12 tested at Ann Kim violated the Metal Containing Jewelry law. One in four items the Department
13 inspected was labeled as lead free, but testing revealed these items contained as much as 16 times
14 the legal limit of lead.

15 50. An inspection of Luxy Accessories revealed a similar environment of non-
16 compliance. Of the 45 styles of jewelry the Department screened and tested at Luxy Accessories,
17 twenty-one violated the Metal Containing Jewelry law. Among the non-compliant items the
18 Department identified at Luxy Accessories was a pair of children's earrings shaped like teddy
19 bears that contained 900 times the legal limit of lead and a hair clip for children represented as
20 "Lead Free Nickel Free" that contained lead levels 20 times the legal limit.

21 51. To date, at each of its inspections of a Defendant's facility, the Department has
22 found noncompliant jewelry. The Department suspects that Defendants continue to manufacture,
23 ship, sell, offer for sale, or offer for promotional purposes jewelry in California that violates the
24 State lead standards and that is sold with false and misleading statements about the lead content.

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FIRST CAUSE OF ACTION
[Against All Defendants]

**VIOLATIONS OF HEALTH AND SAFETY CODE SECTION 25214.2(a):
ADULT JEWELRY
(METAL CONTAINING JEWELRY LAW)**

52. Plaintiff realleges and incorporates herein by reference all paragraphs above as though set forth here in full.

53. Each defendant is a "person" within the meaning of Health and Safety Code section 25214.2, subdivision (a), which makes it illegal for a person to manufacture, ship, sell, offer for sale, or offer for promotional purposes jewelry for retail sale or promotional purposes in the state of California, unless the jewelry is made entirely from Class 1, Class 2, or Class 3 materials, or any combination of those materials.

54. Within the past five years, Defendants have violated Health and Safety Code section 25214.2, subdivision (a), by manufacturing, shipping, selling, or offering for sale or for promotional purposes in California jewelry that is not made entirely from Class 1, Class 2, or Class 3 materials, or any combination of those materials. The jewelry contains components or materials with lead content that exceeds permissible levels for Class 1, Class 2, or Class 3 materials.

55. The following allegation is likely to have evidentiary support after a reasonable opportunity for further investigation or discovery: Defendants have violated and continue to violate Health and Safety Code section 25214.2, subdivision (a), by manufacturing, shipping, selling, or offering for sale or for promotional purposes in California jewelry that is not made entirely from Class 1, Class 2, or Class 3 materials, or any combination of those materials.

56. With the limited exception of violations by Joia Trading that were enforced through the *Burlington* Consent Judgment, said violations render each defendant liable for civil penalties not to exceed \$2,500 per day for each violation, as well as other remedies.

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1 **SECOND CAUSE OF ACTION**

2 **[Against All Defendants]**

3 **VIOLATIONS OF HEALTH AND SAFETY CODE SECTION 25214.2(b):**
4 **CHILDREN'S JEWELRY**
5 **(METAL CONTAINING JEWELRY LAW)**

6 57. Plaintiff realleges and incorporates herein by reference all paragraphs above as
7 though set forth here in full.

8 58. Each defendant is a "person" within the meaning of Health and Safety Code section
9 25214.2, subdivision (b), which makes it illegal for a person to manufacture, ship, sell, offer for
10 sale, or offer for promotional purposes children's jewelry for retail sale or promotional purposes
11 in the state of California, unless the jewelry is made entirely from one or more of the materials
12 listed in Health and Safety Code sections 25214.2, subdivisions (b)(1)-(6).

13 59. "Children's jewelry" means jewelry that is made for, marketed for use by, or
14 marketed to, children six years of age and younger.

15 60. Within the past five years, defendants Alljoy Supply, Ana Accessories, Ann Kim,
16 Luxy Accessories, and New Rising Sun, have violated Health and Safety Code section 25214.2,
17 subdivision (b), by manufacturing, shipping, selling, or offering for sale or for promotional
18 purposes in California children's jewelry that is not made entirely from one or more of the
19 materials listed in Health and Safety Code sections 25214.2, subdivisions (b)(1)-(6). The jewelry
20 contains components or materials with lead content that exceeds permissible California levels for
21 children's jewelry.

22 61. The following allegation is likely to have evidentiary support after a reasonable
23 opportunity for further investigation or discovery: all Defendants have violated and continue to
24 violate Health and Safety Code section 25214.2, subdivision (b), by manufacturing, shipping,
25 selling, or offering for sale or for promotional purposes in California children's jewelry that is not
26 made entirely from one or more of the materials listed in Health and Safety Code section 25214.2,
27 subdivisions (b)(1)-(6).

28 62. Said violations render each defendant liable for civil penalties not to exceed \$2,500
per day for each violation, as well as other remedies.

FILED

1 **THIRD CAUSE OF ACTION**

2 **[Against All Defendants]**

3 **VIOLATIONS OF BUSINESS AND PROFESSIONS CODE SECTION 17500**
4 **(UNTRUE OR MISLEADING STATEMENTS)**

5 63. Plaintiff realleges and incorporates herein by reference all paragraphs above as
6 though set forth here in full.

7 64. Defendants have violated and continue to violate Business and Professions Code
8 section 17500 by making or disseminating untrue or misleading statements, or by causing untrue
9 or misleading statements to be made or disseminated in, or from California, with the intent to
10 induce members of the public to purchase non-compliant leaded jewelry. Such statements on
11 product labels include, but are not limited to, the following:

- 12 a. Lead Free;
- 13 b. Lead Safe;
- 14 c. This product is in compliance with the latest standards of permissible
15 level of lead;
- 16 d. Lead & Nickel Safe;
- 17 e. Nickel/Lead Free; and
- 18 f. Lead Free Nickel Free.

19 65. Defendants knew or should have known that these statements were untrue or
20 misleading at the time they were made.

21 66. Said violations render each defendant liable for civil penalties not to exceed \$2,500
22 for each violation, as well as other remedies.

23 **FOURTH CAUSE OF ACTION**

24 **[Against All Defendants]**

25 **VIOLATIONS OF BUSINESS AND PROFESSIONS CODE SECTION 17508**
26 **(FALSE OR MISLEADING ADVERTISING CLAIMS)**

27 67. Plaintiff realleges and incorporates herein by reference all paragraphs above as
28 though set forth here in full.

1 68. Defendants have violated and continue to violate Business and Professions Code
2 section 17508 by making false or misleading advertising claims that purport to be based on
3 factual, objective, or clinical evidence, that compare the product's effectiveness or safety to that
4 of other brands or products, or that purport to be based on fact. Such claims include, but are not
5 limited to the following claims:

- 6 a. Lead Free;
- 7 b. Lead Safe;
- 8 c. This product is in compliance with the latest standards of permissible
9 level of lead;
- 10 d. Lead & Nickel Safe;
- 11 e. Nickel/Lead Free; and
- 12 f. Lead Free Nickel Free.

13 69. Said violations render each defendant liable for civil penalties not to exceed \$2,500
14 for each violation, as well as other remedies.

15
16 **FIFTH CAUSE OF ACTION**
17 **[Against All Defendants]**

18 **VIOLATIONS OF BUSINESS AND PROFESSIONS CODE SECTION 17200**
19 **(UNFAIR COMPETITION LAW)**

20 70. Plaintiff realleges and incorporates herein by reference all paragraphs above as
21 though set forth here in full.

22 71. Defendants have, within the previous four years, engaged in unlawful, unfair or
23 fraudulent business acts or practices which constitute unfair competition within the meaning of
24 Business and Professions Code section 17200. Such unfair competition includes, but is not
25 limited to, the following acts or practices:

26 a. As set forth in the First and Second Causes of Action, Defendants have
27 violated Health and Safety Code section 25214.2.

28 b. As set forth in the Third Cause of Action, Defendants have violated
Business and Professions Code section 17500; and

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c. As set forth in the Fourth Cause of Action, Defendants have violated Business and Professions Code section 17508.

72. Said violations render each defendant liable for civil penalties not to exceed \$2,500 for each violation, as well as other remedies.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that this Court:

1. Pursuant to the First, Second, Third, Fourth, and Fifth Causes of Action, grant civil penalties according to proof.

2. Pursuant to Health and Safety Code section 25181, subdivision (a), enter such temporary restraining orders, preliminary injunctions, permanent injunctions, declarations, or other orders prohibiting Defendants, and each of them, and their successors, agents, representatives, employees, and all persons who act in concert with them, from violating the Metal Containing Jewelry law, including, but not limited to, the violations alleged in the First and Second Causes of Action;

3. Pursuant to Business and Professions Code section 17535, enter such temporary restraining orders, preliminary injunctions, permanent injunctions, declarations, or other orders prohibiting Defendants, and each of them, and their successors, agents, representatives, employees, and all persons who act in concert with them, from making untrue or misleading representations about their products, including, but not limited to, the violations alleged in the Third Cause of Action;

4. Pursuant to Business and Professions Code section 17535 enter such temporary restraining orders, preliminary injunctions, permanent injunctions, declarations, or other orders prohibiting Defendants, and each of them, and their successors, agents, representatives, employees, and all persons who act in concert with them, from making false or misleading advertising claims about their products, including, but not limited to, the violations alleged in the Fourth Cause of Action;

5. Pursuant to Business and Professions Code section 17203, enter such temporary restraining orders, preliminary injunctions, permanent injunctions, or other orders prohibiting

1 Defendants, and each of them, and their successors, agents, representatives, employees, and all
2 persons who act in concert with them, from selling non-compliant leaded jewelry in California,
3 and from committing any acts of unfair competition in violation of Business and Professions
4 Code section 17200, including, but not limited to, the violations alleged in the Fifth Cause of
5 Action;

6 6. Enter such orders as "may be necessary to restore to any person in interest any money
7 or property, real or personal, which may have been acquired by means of" these unlawful acts,
8 untrue or misleading representations or false or misleading advertising claims as provided for in
9 Business and Professions Code section 17203 and 17535 other applicable laws;

10 7. Award Plaintiffs their costs of suit; and

11 8. Grant such other and further relief as the Court deems just and proper.

12
13 Dated: December 10, 2012

Respectfully Submitted,

14 KAMALA D. HARRIS
15 Attorney General of California

16 Original signed by

17 ✓
18 HARRISON M. POLLAK
19 JASON A. MALINSKY
20 Deputy Attorneys General
21 Attorneys for Plaintiffs
22 *People of the State of California, ex rel.*
23 *Kamala D. Harris, Attorney General, and*
24 *People of the State of California, ex rel.*
25 *Debbie Raphael, Director, Department of*
26 *Toxic Substances Control*

22 OK2009901032
23 90272061.docx

DECLARATION OF SERVICE BY U.S. MAIL

Case Name: **People v. JOIA Trading, Inc., et al.**
No.: **BC488508**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service with postage thereon fully prepaid that same day in the ordinary course of business.

On December 10, 2012, I served the attached **FIRST AMENDED COMPLAINT** by placing a true copy thereof enclosed in a sealed envelope in the internal mail collection system at the Office of the Attorney General at 1515 Clay Street, 20th Floor, Oakland, CA 94612-0550, addressed as follows:

Bruce Nye, Esq.
Adams, Nye, Becht LLP
222 Kearny Street, Seventh Floor
San Francisco, CA 94108
for JOIA Trading, Inc.

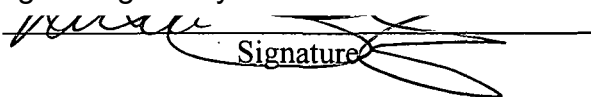
Luxy Accessory, Inc.
c/o Hyun Sook Kim
208 E. 6th Street, #2C-1
Los Angeles, CA 90014

Surjit P. Soni, Esq.
The Soni Law Firm
35 North Lake Avenue, Ste. 720
Pasadena, CA 91101
for Eastern Nationwide Supply, Inc.
Deacon A. Ladasz, Esq.
Law Offices of Deacon A. Ladasz
9070 Irvine Center Drive, Ste. 125 Irvine,
CA 92618
*for Young Chui Yoon, dba New Rising Sun,
Inc.*

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on December 10, 2012, at Oakland, California.

Victoria M. Gutierrez
Declarant

Original signed by


Signature