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13 Attorneys for Plaintiff

14 SUPERIOR COURT OF CALIFORNIA
15 COUNTY OF LOS ANGELES

16
17 **THE PEOPLE OF THE STATE OF CALIFORNIA,**

Case No. _____

18 Plaintiff,

**COMPLAINT FOR
INJUNCTIVE AND OTHER
RELIEF AND FOR CIVIL
PENALTIES** (Bus. & Prof.
Code, § 17200)

19 v.

20 **SAFEWAY, INC., a Delaware Corporation, and
DOES 1 through 5, inclusive,**

21 Defendants.

22 The People of the State of California, through Bill Lockyer, Attorney General

23
24 of the State of California, and Rockard J. Delgadillo, Los Angeles City Attorney, hereby allege on
25 information and belief as follows:

26 **NATURE OF ACTION**

27 1. Youth smoking is a serious pediatric health problem in California and the rest of
28 the nation. About 80% of regular smokers began smoking as children. Every day in the United

1 States more than 2,000 children begin smoking cigarettes, and one-third of those children will
2 die one day from tobacco-related disease. It has been shown that the younger a person begins
3 smoking, the more likely it is he or she will be unable to quit in later life and will suffer a
4 disease attributable to tobacco use. Recent studies indicate that youth demonstrate signs of
5 addiction after smoking only a few cigarettes. Exacerbating these problems, an estimated 690
6 million packs of cigarettes are sold illegally to children each year nationwide.

7 2. Defendant Safeway, Inc. (hereinafter, “Safeway”) owns and operates grocery
8 stores, markets, and supermarkets throughout the State of California, including in the City of
9 Los Angeles. The People have documented that Safeway has sold cigarettes to children in
10 California in violation of state law on numerous occasions. Notwithstanding the fact that
11 Safeway has been repeatedly notified of said sales to minors, defendant has not taken adequate
12 precautions to ensure that children cannot purchase cigarettes from its stores. In addition,
13 defendant has failed to comply with other laws concerning the sale of tobacco products,
14 including state law requiring that retailers of tobacco products post certain age-of-sale warning
15 signs at each point of purchase and the City of Los Angeles ordinance requiring the display of
16 tobacco retail permits. The People bring this action pursuant to California’s unfair competition
17 statute to protect the public from defendant’s unlawful and unfair business practices.

18 PARTIES

19 3. Bill Lockyer is the duly elected Attorney General of the State of California and is
20 the chief law enforcement officer of the state (Cal. Const., art. 5 § 13.). Rockard J. Delgadillo is
21 the City Attorney and chief law enforcement officer of the City of Los Angeles. The Attorney
22 General and the City Attorney are authorized by Business and Professions Code sections 17204
23 and 17206 to bring actions in the name of the People of the State of California to enforce the
24 state’s statutes prohibiting unfair competition. The Attorney General and the City Attorney,
25 acting to protect the general public from unfair and unlawful business practices, bring this suit to
26 enjoin defendants from engaging in the unfair and unlawful business practices alleged herein and
27 to obtain injunctive relief, civil penalties, restitution and disgorgement of unlawful gain, and other
28 relief for Safeway’s violations of law.

1 4. Defendant Safeway owns and operates grocery stores, markets, and supermarkets
2 (hereinafter, “stores”) under the Safeway, Vons, Pavillions, and Pak N’ Save names throughout
3 the State of California and in the City of Los Angeles. Tobacco products are sold to consumers
4 at these stores.

5 5. Reference in this Complaint to the acts of defendant Safeway are deemed to mean
6 that such corporate defendant did the alleged acts through its officers, directors, agents,
7 employees, and/or representatives while they were acting within the actual or ostensible scope of
8 their authority.

9 6. The true names and capacities of the defendants sued herein under the fictitious
10 names of Does 1 through 5, inclusive, are unknown to the People who therefore sue these
11 defendants by such fictitious names. The People will amend their complaint to show the true
12 names of such defendants when the same have been ascertained. The People are informed and
13 believe and upon such information and belief allege that each of the defendants designated
14 herein as a DOE is legally responsible in some manner for the events alleged in this complaint.

15 **JURISDICTION AND VENUE**

16 7. The violations of law alleged in this Complaint occurred in the City of Los
17 Angeles and elsewhere in California.

18 **FACTUAL ALLEGATIONS**

19 8. Pursuant to Penal Code section 308(a), every person, firm or corporation which
20 knowingly or under circumstances in which it has knowledge, or should have grounds for
21 knowledge, sells cigarettes to persons under 18 years of age is subject either to a misdemeanor
22 criminal action or to a civil action punishable by a fine.

23 9. Inspections by the California Department of Health Services conducted pursuant
24 to Business and Professions Code section 22950 et seq. (the STAKE, Stop Tobacco Access to
25 Kids Enforcement, Act) have determined that during the four years preceding the filing of this
26 Complaint, defendant Safeway has sold tobacco products to persons under 18 years of age on
27 numerous occasions and has failed to check the identification of tobacco purchasers who
28 reasonably appear to be under 18 years of age, in violation of Penal Code section 308(a) and

1 Business and Professions Code section 22950 et seq.

2 10. Inspections by the Department of Health Services conducted pursuant to Business
3 and Professions Code Section 22950 et seq. have determined that during the four years preceding
4 the filing of this Complaint defendant Safeway has on numerous occasions failed to post the
5 required age of sale warning signs in its stores at each point of purchase, in violation of Penal
6 Code section 308(c) and Business and Professions Code section 22952(b).

7 11. Inspections by the Department of Health Services have further determined that
8 during the four years preceding the filing of this Complaint defendant Safeway has failed to
9 prominently display the required tobacco retail permit in all of its stores in the City of Los
10 Angeles, in violation of Los Angeles Municipal Code sections 46.90 through 46.101.

11 **CAUSE OF ACTION**

12 **Violations of Business and Professions Code Section 17200**

13 **Unfair or Unlawful Business Acts or Practices**

14 12. The People reallege and incorporate by reference paragraphs 1 through 11,
15 inclusive, as though fully set forth herein.

16 13. Within the past four (4) years from the date of the filing of this Complaint,
17 defendants, and each of them, engaged in acts of unfair competition as defined in and prohibited
18 by Business and Professions Code section 17200 et seq. by conduct which includes, but is not
19 limited to:

20 (a) Selling cigarettes to persons under 18 years of age, in violation of Penal Code
21 section 308(a) and Business and Professions Code section 22950 et seq.;

22 (b) Failing to check the identification of tobacco purchasers who reasonably appear to
23 be under 18 years of age, in violation of Business and Professions Code section 22956;

24 (c) Failing to display the required age of sale warning signs at each point of purchase,
25 in violation of Penal Code section 308(c) and Business and Professions Code section 22952(b);
26 and

27 (d) Failing to prominently display the required tobacco retail permit in its stores in
28 the City of Los Angeles, in violation of Los Angeles Municipal Code sections 46.90 through

1 46.101.

2 **WHEREFORE**, the People respectfully pray that this Court grant the following relief:

3 1. That pursuant to Business and Professions Code section 17203, defendants, their
4 successors, employees, agents, representatives, and all other persons who are acting in concert
5 with them, be preliminarily and permanently enjoined from engaging in unfair competition as
6 defined in Business and Professions Code section 17200 and be specifically enjoined from
7 engaging in the types of acts or practices set forth in this complaint.

8 2. That defendants be required to pay to the People civil penalties pursuant to
9 Business and Professions Code section 17206 of \$2,500 for each violation, as determined by
10 proof.

11 3. That defendants be required to pay the People's costs in this litigation.

12 4. That the Court grant such other and further relief as the Court deems just and
13 proper.

14 Dated: June 16, 2004

15 Respectfully submitted,

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17 Attorney General of the State of California
18 TOM GREENE
19 Chief Assistant Attorney General
20 DENNIS ECKHART
21 Senior Assistant Attorney General

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ALAN LIEBERMAN
23 Deputy Attorney General

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California, Plaintiff